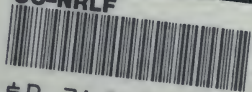


UC-NRLF



\$B 268 765

University of
California



Lux ex Tenebris.



Claus Spreckels Fund.

CRIME AND CRIMINALS



Digitized by the Internet Archive
in 2007 with funding from
Microsoft Corporation

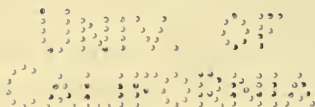
CRIME AND CRIMINALS

1876-1910

BY

R. F. QUINTON, M.D.

LATE GOVERNOR AND MEDICAL OFFICER OF
H.M. PRISON, HOLLOWAY



LONGMANS, GREEN AND CO.

39 PATERNOSTER ROW, LONDON

NEW YORK, BOMBAY, AND CALCUTTA

1910

All rights reserved

HV 6944
.Q5

THE
ASSOCIATION

PREFACE

I HAVE attempted in the following pages to give an outline of the principal changes that have taken place of late years, and of the progress that has been made in our methods of repressing crime and dealing with criminals, together with the results that have been achieved under these methods. On the actual efficacy or superiority of our system I feel too diffident to dogmatise. The subject is one on which widely different opinions are held by able and conscientious thinkers. Further, I cannot lay claim to any experience as a writer of books, although I have been in practical touch with the problems involved in prison administration for several years. That the system, however, as it exists to-day, has merits of its own, few

people who have witnessed the practical results of its working will be inclined to deny.

My aim has been to give, as moderately and impartially as I could, the results of my own observation and experience of the system as I found it.

Let me premise that for the greater part of my service I was engaged solely in medical work at Portsmouth Convict Prison, and then, in succession, at Millbank, Hull, Manchester, Liverpool, Wandsworth, and Parkhurst Prisons, and that during this period of twenty-five years I had nothing to do with discipline in an official capacity. A medical officer in these circumstances is somewhat favourably placed for observing the general working of the machine. He is the recognised and responsible protector of the prisoner from any undue harshness of treatment that may tend to his physical or mental detriment, and he is very often the confidential repository of the prisoner's grievances, or complaints

of unfair dealing on the part of the staff. Later on in my service as Governor at Holloway Prison, I was called upon to carry out disciplinary duties myself over female prisoners. The recollection that for so many years it had been my function to temper the wind of discipline to the shorn lamb who transgressed the rules served me in good stead, and exercised a wholesome check on any tendency I might have had to harsh measures. Although Carlyle has said that "Womankind will not drill" (from his perhaps more limited experience), I found that female prisoners were quite as tractable and amenable to discipline as men, and they could be drilled also. Many of the younger women in fact quite revelled in their Swedish drill under a very capable lady instructress, who soon imparted to them a martial step and bearing, so that their best friends would hardly know them. Suffragettes were of course a little difficult, but even they were not wholly intractable, or

insusceptible to the exhortations and blandishments of our very patient and efficient female officers, who were generally credited by the Suffragettes with at least good intentions, even if they were somewhat lukewarm in the matter of the vote.

The point of view of any official on the question of prison treatment is of necessity absolutely different from that of any prisoner, but more especially so from that of the prisoner who is capable of writing and publishing his ideas and theories for the information of the public. It is indeed very doubtful if the great mass of prisoners who are inarticulate as to their prison experiences would confirm, or agree with, the opinions put forward in their behalf by the more cultured members of their class (for whom as a rule they have no special affection), who are much more sensitive to the demerits of the frugal fare offered by the Prison Commissioners, and to the disagreeable restrictions of captivity, than their less

favoured fellow-prisoners who move in lower social circles. There are in fact good grounds for thinking, as will be seen presently, that a large proportion of this latter class takes much more kindly to the existing conditions of prison life than is generally supposed.

Any system of imprisonment, therefore, which is entirely lacking in a deterrent principle would appear to be a futile instrument for the repression of crime. It is equally true, on the other hand, that no system which does not contain a reformatory principle is at all likely to produce satisfactory results. It is the aim of prison administrators to combine these principles in their due proportions.

But two corresponding classes of reformers are also at work, each fighting for its pet theory. One may be said to be represented by the stern parent who thinks that punishment is the first and most essential step to repentance, and, in itself, a potent instrument for reform-

ing character. The other is a more indulgent parent who holds that all punishment is cruel and demoralising, and that rose-water methods, combined with copy-book maxims and creature comforts, suffice for the conversion of criminals and for the eradication of criminal habits. Sentimentalists of the latter kind overlook the fact that eradication of a criminal habit, or of any other habit, cannot be attained even outside a prison by other than disagreeable means. It is quite conceivable that the habit, for instance, of eating peas with a knife could hardly be dropped by many people without some pangs of regret.

Disciplinarians, on the other hand, are apt to forget that vindictive treatment of offenders has never proved a successful policy, that it rankles in the mind of the victim, and is much more likely to drive him to despair than to wean him from evil courses. "I may as well be punished for something"—this is his illogical way of looking at it.

Most of the theories advanced by these reformers fail to take note of the "natural history," if I may so speak, of the personnel that has to be dealt with under the schemes which are so confidently proposed for our adoption, although they are so ill-adapted to some of the types of criminal I have attempted to describe. The habits and ways of the criminal class are frequently inscrutable, and invariably unlike those of normally constituted people. Some defect or weak spot in character is constantly found to accompany criminality. Want of self-restraint, lack of moral principle, callousness of temperament, selfishness, idle habits—these are formidable obstacles to reformatory effort which too often prove insurmountable. There are many to whom you may preach and deliver lectures who will not listen. Others who may be liberally supplied with books will not read. The woman who will curl her hair with the pages of a library, or even a devotional book, is

not a hopeful subject for intellectual improvement. Administrative authorities, who have to provide for the moral and intellectual advancement of full-grown criminals, receive many counsels of perfection which are totally inapplicable to the material they have to deal with. Brilliant results in such a field can hardly be expected, but I think I have shown that signs are not wanting of steady progress having been made during the last three decades not only in the reformation of criminals but also in the reduction of crime.

August 1910.

CONTENTS

CHAPTER I

PAGE

Local prisons taken over by the State in 1878—Movement of Crime—Habitual criminals—Rescue work—Daily average population of prisons, 1880 and 1909 compared—Conduct of prisoners—Convict prisons in 1876—Assaults—Malingering—Food . . .	1
-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---

CHAPTER II

Dietary punishment—Work—Assaults and insubordination—Punishments and offences—Elementary Education and Summary Jurisdiction Acts—Female prisoners—Change of views as to the aim of a sentence—Prevention of Crime Act, 1908—The New Authority and the Progressive Stage System . . .	26
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----

CHAPTER III

Sanitation—Increase of medical staff—Treadwheel—Unproductive labour—Mat-making in prisons sacrificed to the competition clause of the Act of 1877—Discipline had to be reconciled with industrial progress—Orders for work from Government departments—Development of industries—Associated labour—Classification—Grievances	53
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----

CHAPTER IV

	PAGE
Habituals in convict and local prisons—Preventive detention—The attractions of a life of crime—Jewish convicts of an idle type—Psychology and motives of the professional criminal—Insanity—Habituals useful in prison—Drink and crime	73

CHAPTER V

Habituals in local prisons a different class—Vagrants and our method of dealing with them—The incorrigible rogue—Habits of idleness less in females—Weak-minded prisoners—Physical defectives—Drunkards—Failure of the Inebriates Act—Sifting-out needed in prisons to aid reformation of criminals	96
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----

CHAPTER VI

The Borstal System—Discharged Prisoners' Aid Society—Prison population likely to decrease when the new Acts come into force—Better classification will result—Some system of selection needed for a scientific treatment of criminals—Cost to the State of proposed changes—Failure of the short sentence system for some classes—The prevalence of an idle class—Borstal treatment for females	120
-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----

CHAPTER VII

Borstal System continued—Objects of it twofold—Range of experiment hampered—Apathy of the Courts—Deductions from experiment—Physical and mental state of material to be dealt with—	
-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--

CONTENTS

XV

	PAGE
Description of the machinery of the scheme—Some dangers in the use of Borstal Institutions—Preventive detention	143

CHAPTER VIII

Evolution of the prison system—Prisons in the time of John Howard—Gaol fever—Legislation on prisons—Building of Pentonville in 1840—Act of 1865—Separate system—Hard labour—Progress in Reform after 1865—Act of 1877—Public begin to take an interest in prisons—Departmental Committee appointed in 1894 to inquire into the whole subject	166
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----

CHAPTER IX

Penalties not severe under present system—Administration of English and American law—Prisoners under sentence of death—General conditions of life in prison—Penal system is a compromise—Industry and good conduct expected of prisoners—Reformatory treatment impracticable for minor offenders—Machinery for investigating grievances—Writings of ex-prisoners—Deterrent and reformatory effects—Success of system depends on reduction of criminals—Press comments—American prisons	196
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----

CHAPTER X

Hardships of imprisonment exaggerated—Comments on imprisonment by ex-convict in the <i>Hibbert Journal</i> —Scheme of reformers—Extension of associated labour—Arguments against total abolition of separate system—Advantages and disadvan-	
----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--

tages of association—Discipline a necessity for prisoners—Penal systems of other countries— Identification—Criminal statistics— <u>Recidivism</u> — General efficacy of our system and its leading principles—Activity of habitual criminals—Alleged failure of the system—Proposed developments under the Bill to be introduced in the autumn of 1910—Theories of punishment—The system un- suited to some class of prisoners—Difficulties of reformatory work in large prisons	228
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----

2 CRIME AND CRIMINALS

a great extent, on its own particular lines. There was no uniformity in the administration in respect to the method of enforcing hard labour, or in respect to discipline or the treatment of prisoners, or even in diet. It was said at the time that the various prison authorities actually vied with one another in their efforts to devise an unattractive scale, and that prisoners selected their spheres of influence and activity in the districts in which they found labour to be easiest, and food most plentiful. Some of the prison buildings were so old and ill-constructed that the provisions of the law could not be carried out in them. It was under these circumstances that the legislature at length took active steps to close obsolete prisons, to concentrate the inmates in better buildings, and to introduce a uniform system of management under the direction of a Secretary of State, who was to be responsible to Parliament. The Act of 1877 accord-

UNIVERSITY OF TORONTO
LIBRARY

ingly provided for the maintenance of prisons out of public funds, and for the appointment of Prison Commissioners for the purpose of aiding the Secretary of State in carrying into effect the provisions of the Act. The general superintendence of the prisons was practically vested in the Prison Commissioners, subject to the control of the Secretary of State. At the same time, however, a Visiting Committee of local magistrates was created for each prison, to be appointed annually by Quarter Sessions, and to be quite independent of the Prison Commissioners, with special powers to hear complaints from prisoners, to report on abuses, to punish prisoners for serious offences against prison discipline, and to report direct to the Secretary of State on the general condition of prisons and prisoners.

The changes in the law, and the system of centralisation which they inaugurated, provoked some hostile

4 CRIME AND CRIMINALS

criticism at first, but time and experience have shown that they have been on the whole salutary in their effects, that they have been economical in working, and that they have been beneficial to all classes of prisoners. No one, at the present time at all events, suggests a return to the old system.

One of the first effects of the Act was the reduction of the number of prisons from 113 to 69 in the first year, and to 68 in the second. The number at present is 57.

The Prisons' Act of 1865 had been the first real step on the part of the legislature to deal with criminals on rational and humane principles. That of 1877 carried the process a stage further by systematising the machinery for carrying the provisions of the law into effect. Statistical information on the subject of crime and criminals has since then been supplied with more accuracy and regularity, so that the subject attracts more public attention,

EFFECTS OF THE ACT OF 1877 5

and is easier of investigation for prison reformers. To those, however, who are interested in the movement of crime, the perusal of blue books, with all their wealth of detail, is a perplexing pastime. Further, the subject has many inherent difficulties. "Crime" has different meanings to different minds. Exceeding the speed limit is not on the same plane of criminality as embezzlement, yet both are down in the official catalogue. Again, sentences vary in length from time to time, and new offences are constantly being added to the statute book, so that even experts are puzzled in comparing one year's crime bill with that of another.

The views of an ex-official, who has lived for years as it were "in the thick of it," may be liable to an unconscious optimism, but I think I can discern some broad general conclusions that may fairly be drawn from a general survey of the subject.

6 CRIME AND CRIMINALS

It frequently happens that an unusually heavy calendar at the Central Criminal Court, or the occurrence of some sensational crime that fills pages of the newspapers for weeks together, gives rise to pessimistic general reflections on the subject of crime and criminals. At such times the habitual criminal gets on the nerves of the public, and many infallible remedies are suggested for suppressing him, either by long terms of seclusion, or by improving him, through special courses of training, off the face of the earth. The methods hitherto adopted for dealing with him, when he is in full bloom, either by way of control or cure, have proved unsatisfactory. Meantime, his constant appearance and re-appearance before the courts in stage-army fashion tend to place him in false perspective, and to foster the belief that little or no progress has been made in recent years in the repression of crime. After an experience extend-

DECREASE OF CRIMINALS 7

ing over thirty-two years of service as Medical Officer, and Governor, in several convict and local prisons, with fair opportunities for observing the rise and fall of crime, I do not share this belief. On the contrary, the improvement that has taken place in three decades is as gratifying as it is remarkable. Both crime and criminals have steadily diminished in numbers to an extent that is hardly realised, and the habitual class no longer produces so large a proportion of reckless desperadoes as it did in former years.

To what extent our much-criticised prison system has contributed to these results, though it has undoubtedly had some share in the good work, it is not easy to determine. Other powerful agencies have been at work, such as the spread of education and of temperance, and various philanthropic efforts, more especially those directed to the rescue of young offenders, which latter is the most effective measure yet devised for check-

8 CRIME AND CRIMINALS

ing criminal recruiting, and, incidentally, for thinning the ranks of the habitual class of offenders. So far as my memory serves me, Mr. Wheatley of the St. Giles's Christian Mission was one of the pioneers—if not the pioneer—of this movement. He has for many years done much unostentatious and unrecognised work in rescuing juvenile offenders, and he is still actively and happily engaged in his labours.

The Borstal Scheme, which has been devised by the Prison Commissioners for the special training of young prisoners as a separate class, is a further development of Mr. Wheatley's ideas, aiming at the reclamation of hooligans who have already embarked on careers of crime as potential and probable recruits for the habitual class. The First Offenders Act is a similar development of the rescue system, while the recent Act for dealing with the confirmed habitual offender by means of a longer sentence under special conditions of seclusion makes a further valu-

able addition to the machinery for the repression of the criminal habit.

It may be predicted with some confidence that these various measures in combination will produce excellent results in future. Meantime the existing criminal record of the country is deserving of attention.

Several sets of statistics are published annually setting forth in full detail the number of crimes reported to the police, the total number of committals, convictions, acquittals, &c., all duly classified. These figures show the fluctuations of crime from year to year, and give some approximate estimate of its volume. For my purpose, however, of taking a wider survey of the movement of crime in the past thirty years, with a view to determine rise or fall, the daily average population of our convict and local prisons seems to me to form the best and most suitable basis of calculation.

The daily average population is arrived at by the simple process of counting

10 CRIME AND CRIMINALS

heads. It is available in the same form for the entire period over which the inquiry extends. It includes all the serious crime of the country that has been actually proved in Court, and, although the serious crimes are diluted in these statistics with very large numbers of petty offences which hardly deserve the name of crime, the great and the small are nevertheless given their proportionate value. One sentence of twelve months in the daily average counts as the equivalent of twelve sentences of one month each.

The following table shows the numbers of the prison population in 1880 and 1909, and the numbers of the population of the country at each of these periods.

Year.	Daily Average Population.		Population.
	Convicts.	Local Prisoners.	
1880	10,299	19,835	25,708,666
1909	3,106	18,923	35,348,780

When increase of the general population is taken into account, and when it is remembered that a considerable proportion of the minor offences represented in local prisons is due to recent legislative enactments, and is, to this extent, new, it will be obvious that the decrease in serious crime since 1880 has been very marked. This latter inference is borne out in the Report of the Prison Commissioners (1909), where it is shown that the number of persons sentenced to penal servitude per 100,000 of population has declined since 1880 from 6·6 to 3·4.

If the crime of the country can be adequately tested by the numbers of those who are engaged in it, these statistics tend to show that it cannot be reckoned, happily for us, as one of the flourishing industries of the country at the present time.

The general conduct of prisoners during the period under review has undergone a considerable change. The type of criminal, too, has materially altered. He

12 CRIME AND CRIMINALS

is nowadays a much milder, and more civilised person than his predecessor of thirty years ago, who was too often an ignorant, truculent, and intractable monster, for whom a very stern code of discipline was required. If a still worse type existed in the eighteenth century, we can hardly be surprised at the severity of the penal laws, or at the rough and ready methods of our ancestors at that time in dealing with the habitual criminal classes. I can well remember my own impressions on joining as Assistant Surgeon at Portsmouth Convict Prison in 1876. The prison then contained some twelve hundred convicts. The armed sentries, gates and bars, fetters and triangles, with other paraphernalia of the establishment, were sufficiently stern and gruesome features to me as a novice entering the service to relieve suffering, but they counted as nothing when compared with an actual acquaintance with the human beings for whose control and safe-keeping they were

CONDUCT OF CONVICTS 13

required. I felt that I had been suddenly transplanted into a veritable community of pirates capable of any, and every, crime under the sun. Although penalties for misconduct were very severe at the time, they had apparently but little deterrent effect.

Savage assaults on warders, threats of violence on officials generally, and all kinds of insubordinate conduct were of daily occurrence. Malingering was practised, to an extent that is hardly credible, by desperate men who tried to evade work. Self-inflicted injuries of the most serious character often led to amputation of limbs and other operations. The practice of placing arms and legs under railway trucks on the works was so prevalent at one convict prison that no less than twenty-five major amputations were performed in one year. A prisoner who had lost an arm in this way, and who had been supplied with an artificial one with an iron hook, told me that it would be helpful to him outside in "settling dis-

14 CRIME AND CRIMINALS

putes," and that it would also get him another "lagging!"

Another violent prisoner, who feigned stiffness of his index finger to avoid oakum picking, was so irate when the finger was forcibly bent that, on returning to his cell, he promptly placed the offending finger in the hinges of his table which was attached to the cell wall, and violently raised the leaf, with the result that the finger was absolutely shattered, and had to be removed.

Irritating, or "faking," any breach of surface was a common practice amongst the work-shy class. A versifying prisoner alludes to it thus:—

"It happens now and then that in the 'farm'
(infirmary)

A fellow works a 'fake' with copper wire,
And thus a wound, which did not much alarm
Becomes inflamed, and looks as red as fire."

No region of the body was held sacred by malingerers of this type, such delicate parts as the ear and eye often sustaining permanent damage.

A fatal case of this kind, which occurred in my early experience, made a great impression on me, as it brought me in contact with what was to me then a new type, although I met with many similar afterwards. The prisoner was a man of middle age. He bore the scars of many "faked" sores, and his record showed almost as many sentences. His whole working life apparently had been spent in prison, but his main object in life had been to avoid work in any shape or form. He was ignorant with the ignorance of the savage, and so devoid was he of anything resembling moral sense, that the rights of property, and the *raison d'être* of the penal laws were to him dark mysteries, and they remained so to the end. "What 'ave I got this 'ere laggin' for? and why can't they let an honest bloke be?" This was the constant burden of his song. His language, which was generally unfit for repetition, was a kind of blank prose, and even on his death-bed it was shock-

16 CRIME AND CRIMINALS

ing to listen to his expletives. I remonstrated with him, and told him of his serious condition. His reply was, "Yes, I think I am nearly ready for the——box now." He was a thief, but apparently he did not know it. He had in the first instance made the sore which led to his death, and had then kept up the necessary irritation so as to secure hospital treatment. All this he frankly confessed to me.

Another hero of many scars, though he was not a malingerer, that I came across at this time gave a curious history of himself. He had been a prize-fighter in the palmy days of the "noble art," in the pre-Heenan-and-Sayers period. He had, in confirmation of his story, a broken nose, rupture of one tympanic membrane, and a generally battered look about his face, but he had, further, dozens of tiny cicatrices like the pitting of small-pox, only more irregular, on both cheeks. These were caused by killing rats with his teeth against time,

A MALINGERING CAREER 17

an occupation which he had recourse to in his declining years, and out of which he made "a good bit." He deplored the decadence of the prize-ring, and gave me the usual invitation to have a turn up with him in his cell, which, however, I declined.

A remarkable example of the persistency with which a malingering career could be carried on was afforded by the case of the notorious American criminal Bidwell, who was sentenced to penal servitude for life in connection with the Bank of England forgeries. He was in good health on conviction, but never did any active work in prison. Feigning loss of power in his legs, he lay in bed from day to day, and from year to year, defying all efforts of persuasion, and resisting all unpleasant coercive measures devised to make him work. When I saw him at Dartmoor at the end of eight or nine years of his sentence, long disuse of his legs had rendered him almost a cripple. The muscles were extremely wasted, and

18 CRIME AND CRIMINALS

both hip and knee joints were contracted in a state of semi-flexion, so that he lay doubled up in a bundle. Though he was examined time after time by experts, no one succeeded in discovering any organic disease, or any cause for his condition other than his own firmly-expressed determination never to do a day's work for the British Government—a threat which I believe he ultimately carried out.

Shamming on a minor scale, of course, was constantly in evidence, and refusals to work were of daily occurrence. The unpleasant duty of certifying fit for labour the very idle ones, to whom work of any kind was objectionable, frequently brought the doctor into odium with his patients, and led to threats of personal violence. My Chief at this time, who was as kind-hearted as he was conscientious and skilful, and who was, moreover, very popular with the convicts themselves, was assaulted by one of the lazy malcontents, and had a narrow

escape of serious injury. Every day the sick list amounted to almost 10 per cent. of the population, although the men were all supposed to be able-bodied and fit for a Public Works Prison. Out of a hundred of these daily applicants, not more than a dozen really needed medical treatment of any kind. Some came down in the hope of meeting a pal employed in another working party, others to relieve monotony, others to get a dose of medicine of any kind, no matter how nasty—brimstone and treacle, owing to its semi-solidity I suppose, being the most popular on the menu. As about a hundred had to be seen in a space of three-quarters of an hour, it was essential to be quick in diagnosis and ready with the treatment, which was accordingly administered on the spot from the compounder's tray. Happily in most cases there was no doubt about the symptoms, but when any doubt did arise, the prisoner got the benefit of at least half a day's rest in hospital for

20 CRIME AND CRIMINALS

observation. I copied the following commentary on this subject from a letter written by an educated prisoner to his friends.

“The Medical Staff here wish to do good, but they are so frightfully imposed upon that, except in cases of organic disease, where mysterious tappings and listenings at the mouth of the stethoscope verify the patient’s statements, they have, in self-defence, to turn a deaf ear to complaints. The practical outcome of this is that an organic disease is quite as valuable to a man in prison as an annuity is to him out of it. At the same time it is but fair to tell you that the functional derangement set, if I may so term them, sometimes get an innings, but they are always looked upon as half impostors.”

It was well known to all prisoners that additions to, or alterations of, the ordinary scale of diet were granted on medical grounds only. Applications accordingly on this subject were addressed in the

first instance to myself or my colleague. They came in shoals, and were pressed with much persistency. The diet was fairly liberal in quantity, and in a physiological sense should have sufficed for all but a small percentage of exceptional cases. Some of the ingredients of the scale, however, such as the oatmeal parts, were very distasteful to several convicts, especially when they were continued over the years of a long sentence. Added to this, the air of the dockyard extension works, where the men were employed, tended to impart keenness to the appetite.

If all requests had been granted, every man in the prison would have been on extra diet in a month—those who could not consume the whole of it either rejecting the part they did not like, and eating the rest, or passing on their surplus to others who could consume it, in consideration for some value received at the time, or to be received later, so that an Exchange and Mart on a promising scale

22 CRIME AND CRIMINALS

would very soon have been established. It was necessary, therefore, to exercise some discrimination as to the grounds on which applications were based, and much weighing and medical overhauling of the men had to be carried out before decisions were given. If a prisoner were unsuccessful with me, he generally took his case to the higher courts in succession, applying next to the senior medical officer at his special weekly interview—often telling him incidentally how little he thought of me personally—then to the Governor and Visiting Director, and finally to the Secretary of State in a formal petition, in which he occasionally described the inhumanity of the others also. Here is an appeal written on a prisoner's slate—

“ Six feet in height, and nine stone four !
Two facts which no logic can ever ignore,
And so, without fear of disputation,
I may say such a physical conformation,
So lean, and so long, and so unique
Must belong to a fellow most shockingly weak,
With muscles quite flabby, and sunken in cheek

As if from some churchyard deserted.
To describe myself with a due precision,
I'll borrow the words of the definition
Which mathematicians give of a line—
'Length without breadth or thickness.'
And this, at the age of forty-nine,
Strikes off at a touch this body of mine."

The petitioner in this instance was an "old hand" who was undergoing a long sentence at the time for stealing, and, although his record out of prison was not creditable to him, in prison he was quite an exemplary character, and he knew every strand of the ropes of the establishment. I found, however, on submitting him to examination by scale and measure, that the picture he had drawn of himself was not lacking in colouring, and that his figures were incorrect. He then explained to me that some allowance was due to poet's license, so I gave him an extra loaf to help the muse, and sent him away smiling. How any one with his shrewdness and intelligence could have so conducted his

24 CRIME AND CRIMINALS

private life as to have found himself in prison at all would seem a mystery to many people, but he was, in truth, a specimen of a moral invertebrate not uncommonly met with in the criminal classes. Had the weak part in his character been capable of renewal or repair—which might perhaps have been effected in his earlier years—one felt that he might have become an estimable member of society, for (pace Lombroso) he had about him no stigmata of degeneracy to suggest any hereditary tendency to crime. He had, on the contrary, a prepossessing face, manner, and general bearing, which should have been very helpful to him in the exercise of almost any honest calling.

Almost every second man who was getting to the end of his sentence seemed to think that he was entitled to “a spell in the farm” for the last month to recruit his energies, and even if it were as near a certainty as possible that he would return to prison in a few months, either

HOSPITAL ATTRACTIONS 25

“to finish his ticket,” or on a fresh sentence, this consideration appeared to him to emphasise his claim. One such applicant went so far as to base the merits of his case on the fact that he was coming back soon. On my telling him that he was in good form generally, he said that was all right, but “a spell in the farm” was what he wanted, and he was looking to the future to save us “trouble and expense.” He was, he said, coming back to us before long, but that in the meantime the police would see that he did not get much peace or much “tommy” (food) outside, and that he would be such a wreck on his return, that it would take “six months in ’ospital, with plenty of nourishment, and a pint of Guinness’s cocoa a day, to pull me rahnd.”

CHAPTER II

Dietary punishment—Work—Assaults and insubordination—Punishments and offences—Elementary Education and Summary Jurisdiction Acts—Female prisoners—Change of views as to the aim of a sentence—Prevention of Crime Act, 1908—The New Authority and the Progressive Stage System.

I HAVE touched on these points of the food question as it was a stock grievance with many of the prisoners, who regarded their diet as the most objectionable part of their sentence, just as the work at which they were employed was the pet aversion of several others. The food question was, further, constantly and prominently brought before the medical officer, to whom prisoners naturally looked—and not ungratefully, I think, in most instances—for protection from the severity of its incidence in any special case of hardship calling for an extra allowance, as well as in those

cases, which were too numerous, of prisoners who, through their own idleness or misconduct, had rendered themselves liable to dietary punishment. This latter method of correction, though it has always seemed to me a more or less barbarous and senseless proceeding to apply to human beings, was nevertheless very necessary with unruly prisoners. I know of nothing approaching a scientific excuse for its use, except the principle on which a horse has his oats reduced in order to tame his spirit. As a matter of fact, however, it is often found to be the only way of appealing to the feelings of an idle or insubordinate person, short of the infliction of corporal punishment. Prisoners will light-heartedly submit to loss of remission marks, loss of stage privileges, loss of gratuity, or even to cellular confinement, if their diet is not reduced. For these reasons dietary punishment is retained, though the extent to which it can be given has been much curtailed

28 CRIME AND CRIMINALS

of late years, and governors now resort to it with reluctance only when all else fails.

Prisoners who made complaints in reference to their work were also a fairly numerous class, ranging from those who merely sought a change of working party (to get near a companion maybe, or to get away from a strict officer) to those who objected to any kind of work whatever on principle, or lack of principle, and who resisted, by every means known to them, all the efforts of their officers to get a day's work out of them. Such men were constantly falling off parade to see the doctor before marching out to work, or coming in off the works under sick report, or living in the punishment cells for days together. The great majority of the men worked well, but the idlers gave constant trouble and employment to the staff generally, from the governor downwards. Fancy jobs, such as the cook-house and the bakery,

were in much request with applicants for change of work, but as these billets were looked on in the light of staff appointments, and were tenable only during good conduct, they were, of course, reserved for those only with a good record for work and conduct, which but few of the petitioners could show. Another much coveted post was that of hospital orderly, which attracted some of the most unpromising and unsuitable aspirants. One such applicant, who begged of me to recommend him, was a chronic malingerer who rarely missed a day with the casual sick, and would take a dose of any medicine in the compounder's tray with relish. He looked on this daily visit as a recreation. On my delicately hinting to him that his qualifications for the post were doubtful, he replied that he "knew the business from start to finish"; he had picked it up at Portland, and knew it all from "Miss Sinnico to post-mortem" (Mist. Sennce Co.). I had given an

30 CRIME AND CRIMINALS

unfavourable reply, and he was moving off, when he turned quickly, saying: "Well, then, will you give me a dose of brimstone and treacle?" I gave it to him as a solatium. The hardest kind of outdoor labour consisted of digging clay at the docks, and wheeling it in barrows up inclined planks to the higher ground, an operation known to convicts as "pugging-up." It was not really very hard work for navvies, or for men of good physique, when they had got into the swing of it, but to those who were unaccustomed to much manual labour, it was sufficiently stiff to cause many to fall out and see the doctor. In order to make it as easy for themselves as possible, a very deliberate pace was adopted, so that they did not show the alertness of men on piecework. Looking on at it, one could not but be struck with the slow rate of progress. The whole party, however, appeared to move with a certain rhythmical precision, in slow time, and in

a machine-like manner, as if the regularity of their prison life were stamped on the proceedings, and official routine had entered into their bones and muscles.

Other kinds of outdoor work, such as building operations, were not so much disliked, but, generally speaking, indoor employment was more in request, such as cleaning, and work in the various shops at carpentering, fitting, shoemaking, &c., for which posts many candidates, ineligible as well as eligible, made application. Laundry work, on the other hand, was not in favour.

I have already said that the whole body of workers on the average worked fairly well, but there was always a considerable "tail" of shirkers who gave their officers more trouble than ten times their number of the industrious workers. These shirkers were constantly changing from one party to another in the hopeless pursuit of a "soft job," and were the despair of the deputy governors who made up the lists of

32 CRIME AND CRIMINALS

working parties with the help of the chief warder. After varying vicissitudes of fortune, including often periods of medical observation for alleged illness which was non-existent, and frequent sojourns in the punishment cells, they eventually found a haven in a light labour party under some long-suffering officer who wasted his life in lamenting the output, and who, at last, found it his best policy to let them go as they pleased at work, so long as their conduct was passable enough to escape report. More food, less work, no punishment—these appeared to be the guiding principles of their scheme of life, though they were very unsuccessful in regard to the avoidance of punishment. To see one of these parties playing at work was an object lesson in ergophobia.

From what I have said it will be seen that a convict prison was not a restful place for officers any more than it was for prisoners. The incessant grumblings

and clamouring of prisoners for indulgences in work and diet, combined with their impatience of discipline, frequently led to friction with the staff, as well as to acts of violence and destruction of clothing and other prison property; and warders who tried to carry out discipline were often brutally and murderously assaulted, the conditions of work, and the implements of labour which the convicts had at hand, rendering such attacks perfectly easy to a determined man. I saw the results of several assaults of this kind, many of a very serious character. Heavy punishments of course followed, as the sternest measures only had any effect on this kind of insubordination. I had not been many weeks in office when I had to witness a flogging which resulted from one of these acts of violence. It was to me, by the way, a very disagreeable experience, and an onlooker informed me after it was over that I looked much worse than the victim. On a subsequent occasion I

34 CRIME AND CRIMINALS

saw four men flogged in one morning, all of whose offences had been committed in the space of one month. At this time a knotted cat was in use which made the punishment very severe. Knots are now abolished.

Happily for us the type of violent and reckless prisoners who malingers themselves to death, or wilfully sacrifice an arm or a leg in order to evade labour, or make unprovoked ferocious attacks on warders, is, if not extinct, at least much more uncommon now than it was at the time of which I am writing. A prisoner of such a type was indeed of a hardened and dangerous character which it was well-nigh impossible to improve or reform. He was, however, to a large extent a product of his age, and of the time when compulsory education was unknown. Uneducated and undisciplined he had little self-control, and in prison his criminal passions ran riot. The greater his ignorance, the greater was the violence of his outbreaks. Beside

him in the same working parties were men with more knowledge and self-restraint, who had profited by some school discipline, and who, guilty probably of more serious offences, could nevertheless submit to authority, whereas he was constantly in trouble. Tactless officers may have—as he frequently complained—goaded him into insubordination occasionally, but the main cause of his irritation and unrest was the very long sentence which was then in vogue for the habitual criminal. There were hundreds of habituals who were undergoing sentences of seven years—and five years—penal servitude, with long periods of police supervision to follow, for offences that would hardly call for twelve and six months' imprisonment respectively at the present time. The prisoners were absolutely incapable of comprehending the justice of these sentences which, from their point of view, were out of all proportion to their offences, or of seeing the reason for their predatory

36 CRIME AND CRIMINALS

habits being checked in this way by prolonged periods of isolation, when they might be—as they euphemistically put it—“earning their own living.” “What have I got this stretch for?” “I got this lagging for nothing.” These were the constant excuses offered for refractory conduct.

One of them was brought in from the works one day in shirt and drawers with his face bleeding and bruised. His besetting sin was destroying clothing, and he was accordingly dressed in a canvas suit of very stiff untearable material. He was a thick-set powerful man, who was looked upon as a “bruiser” in his party, and who was very proud of his skill as a boxer. He was a bully, and so—unpopular. It appeared that he had started a quarrel with a small man who had recently been drafted into the party, and who was quite an unknown quantity. They were soon at fisticuffs, and the small man gave him unexpected sport, and a regular hammering—the officer in charge,

I inferred, not intervening prematurely when he saw how things were going. When the fight was stopped, he managed, when left to himself for a few moments, to divest himself of, and make away with, the canvas suit. When I saw him under report I asked why he had made away with it. I knew it was a most unsuitable costume for fighting, and thought he might plead that he wanted to be ready for a renewal of hostilities, but he said at once that he was doing this "pennal" servitude for nothing (I think he mentioned a pair of boots) and that he was taking it out of the "guvvimint." The excitement of the fight, which he looked on as a mere passing incident in the day's work, appeared to have resuscitated his rankling grievance in regard to the length of his sentence.

I have ascribed the heavy list of prison offences and consequent punishments at this time partly to the uncivilised state of the criminal himself, and partly to the state of the law which awarded him a

38 CRIME AND CRIMINALS

sentence that he, rightly or wrongly, considered to be vindictive, and more than he deserved. Two influences, however, were soon at work which were destined to exercise beneficial effects on the state of the criminal, as well as on the state of the law. These were the Elementary Education Act and the Summary Jurisdiction Act (1879). The former of them, enacted in 1870, with compulsory clauses added in 1876, at once began to sweep off the streets hundreds of neglected waifs and strays who were criminals-in-the-making, and brought them under the training, education, and discipline of the schools. A most effective blow was thus struck at criminal recruiting, and the results were not long in showing themselves in a reduced prison population. Meantime, however, one anomalous and immediate effect of the Act of 1876 was to add enormous numbers to the statistics of minor crime. Thousands of convictions began to be recorded against recalcitrant

parents for refusing to send their children to school. These convictions went on increasing till in 1889 they amounted to 78,091, or more than one-eighth of the total convictions from all causes combined. At the same time, and despite this large influx into local prisons, the daily average number of prisoners, both convict and local, was steadily coming down, so as to emphasise the decrease in serious crime that was in progress, of which further striking confirmation was afforded by a marked decline in the indictable offences tried, which form the best test of the graver kinds of crime.

The yearly average number of these in 1870 for the previous ten years had been 19,149. In 1880 this average dropped to 15,817.

The Education Acts were already producing excellent results, not only in netting and civilising the young potential criminals who roamed the streets, but also in training and teaching the social class from which the criminal population

is mainly recruited, when the Summary Jurisdiction Act of 1879 abolished those long, and frequently unequal, sentences which had hitherto been bitterly resented by prisoners, and which had formed the more or less justifiable pretext for their refractory behaviour. These two Acts, then, have had far-reaching effects, both on the statistics of crime, and the character of the criminal. The wholesale reduction of sentences following on the Summary Jurisdiction Act soon emptied half the convict prisons in the country, and nevertheless the local prisons were not proportionately filled. Marked improvement in the general conduct of prisoners also followed.

Subsequently the Penal Servitude Act of 1891 enabled the Courts to sentence convicts to three years penal servitude and upwards, instead of five years and upwards as before.

The accompanying figures, taken from the official returns, will serve to illustrate the improvement that has gradually taken

IMPROVEMENT IN CONDUCT 41

place in the general conduct and character of the prison population:—

Prison Offences.

Year.	Convicts.			Local Prisoners.		
	Total No. of Offences.	Violence.	Daily Average Population.	Total No. of Offences.	Violence.	Daily Average Population.
1880	17,413	1724	10,299	52,478	1362	19,835
1909	3215	437	3106	35,160	627	18,923

Prison Punishments.

Year.	Convicts.			Local Prisoners.		
	Corporal.	Dietary.	Daily Average Population.	Corporal.	Dietary.	Daily Average Population.
1880	56	12,005	10,299	121	24,693	19,835
1909	10	2258	3106	25	26,571	18,923

42 CRIME AND CRIMINALS

Female prisoners, more especially convicts, in 1880 contributed fairly to these figures. They were by no means a meek or mild class. I had some experience of them at Millbank at that time. They numbered about 250, and were kept in a special block or pentagon, so as to be quite separated from the male convicts and military prisoners who occupied the other parts of the prison. The governor at the time, who could manage quite successfully 600 military prisoners and 500 male convicts, was as wax in the hands of the females. If they were at all refractory, his sole idea was to hand them over to the medical officer as patients requiring medical care and treatment, and so to get them out of his jurisdiction for the time being. He seemed to have an idea that all women were mad. His plan led to friction, and did not work well. Violence frequently took on an epidemic form, and too often the female pentagon was a pandemonium. I give some comparative

CONDUCT OF FEMALES 43

statistics showing the decrease in the number of convicts, and the improvement in their conduct in late years:—

Female Convicts.

Year.	Total Offences.	Violence.	Dietary Punishment.	Daily Average Population.
1880	1234	332	189	1154
1909	42	3	18	131

I lay some stress on these indications of improved conduct, to which the Reports of the Prison Commissioners from year to year bore testimony, as matters of public interest second in importance only to the actual diminution in the numbers of the prisoners themselves. Their more rational behaviour obviously rendered them more amenable to those reformatory influences to which the prison authorities were directing their efforts. It further facilitated the relaxation of some of the more severe features of the

44 CRIME AND CRIMINALS

prison code, while it led to a complete revolution in the ideas of some people as to the proper aim and object of a sentence of imprisonment. Elmira and its system began to attract attention. Americans went so far as to maintain that there should be no penal element in a sentence, and that prisons should be purely reformatories for turning out respectable citizens. This doctrine, that prisons should cease to be in any penal sense Houses of Correction, and that a responsible person who has broken the law should be, when in prison, a mere subject for reformatory experiments, has an unwholesome flavour about it to ordinary thinkers, as leading directly to the doubtful—if not pernicious—conclusion that criminals are all moral invalids who need simply appropriate nursing. From the prisoner's standpoint it is somewhat pharisaical, since he knows that, whatever efforts are being made to rehabilitate him, he is nevertheless being punished for the time being by the loss of his

liberty, if in no other way. For these reasons the adoption of the Elmira system does not commend itself as a practical measure to the people of this country. It is inconceivable that it would have been capable of successful application to the convict of thirty or forty years ago. Any one who reads the Prison Act of 1865 will see that, in the view of the legislators of that time, the primary and essential object of a sentence was that it should be penal and deterrent. Reclamation would seem to have been aimed at, partly by the penal portion of the treatment, but, at all events, as a secondary consideration. The Royal Commission (1879) on the Penal Servitude Acts also appears to have held punishment to be the chief consideration, and even the Prison Act of 1877 still embodied the penal theory, although it provided for more reformatory methods than had been hitherto in practice.

It must be remembered that convicts were, and still are, for the most part

habitual criminals. A census taken in 1880 showed that out of 10,000 in round numbers, 8000 were habituals. The latest returns this year show similarly that 84 per cent. of those sent to penal servitude had previous convictions recorded against them. Up to the present time this habitual class has so obstinately and successfully resisted all the efforts that have been made for its reclamation that, in the interests of the community, it has been found necessary to devise a new form of sentence which tacitly admits the failure of reformatory effort on this particular kind of prisoner. The Prevention of Crime Act (1908) provides that in future a person who is proved to be persistently leading a dishonest and criminal life is to be declared an "habitual criminal," and to be ordered a period of "preventive detention," not less than five, or more than ten, years, to follow on a period of penal servitude of not less than three years.

This Act, which is in reality a com-

promise—the original intention of the framers having been an indeterminate sentence for persistent offenders—virtually marks a return to the principle of a long sentence, but certain mitigations of the usual conditions of penal servitude are to be conceded to prisoners in the “preventive detention” period, and certain privileges and rewards granted for industry and good conduct. Whatever success this novel method of treatment may have in reclaiming a class that has hitherto been found irreclaimable, it is tolerably certain to exercise a very deterrent effect on those who are about to take up crime as a profession.

In contrasting the state of crime at the present time with what it was before the Prison Act of 1877, which handed over to the State the management of all the local prisons, I have been careful not to claim any excessive credit for the new administrative authority appointed under that Act. They played no inconsiderable part, however, in humanising the criminal

48 CRIME AND CRIMINALS

himself as well as the criminal code. The discussion on the Bill, which was introduced by the present Lord Cross, who was then Home Secretary, led to quite a reawakening of interest on the part of the public in regard to the details of prison affairs, and the treatment of prisoners. There was a new spirit of leniency abroad. Many will remember how public attention seemed riveted on the plank bed, and how "Cross's plank bed," as it was persistently styled, came in for special odium, and how it was supposed to be a pet device of the Secretary of State, although he had simply taken it over as an inheritance from the Lords Committee of 1863. Lord Cross's actual connection with the plank bed was of quite a different sort, for he put an end to its use for women (although many local authorities found advantages in its employment for both sexes), as well as for men over sixty, and for children.

Further, several of the local authorities

did not relish the taking over of their prisons by the State, so that the Prison Commissioners entered on office under a somewhat fierce light of criticism.

There were, as I have stated, various agencies, and moral influences, already at work outside the prisons, which made for a reduction in the number of criminals, as well as for their moral advancement. The Prison Commissioners at once applied themselves vigorously to second these efforts by amending the conditions inside the prisons, so as to foster in the prisoners themselves a spirit of self-help and habits of industry.

Starting with the principle that a system of rewards and privileges should be held out as incentives to industry and good conduct, and that the forfeiture of these advantages should be substituted, as far as possible, for the wholesale dietary punishments then in use, as well as for confinement in dark cells, and corporal punishment, they at once established for all their prisons a system of

progressive stages. This was a truly beneficent change which, at a stroke, enabled the prisoner to lighten his punishment, and at the same time help to work out his own reformation if he felt so inclined. The privileges which were put within his reach as he passed through the four stages of the system, or of so much of them as his sentence covered, were:—the right to pass from first-class hard labour to easier work of a more interesting kind, to have a mattress to sleep on, to have school instruction and school books in his cell, to have exercise on Sunday, to have library books in his cell, to be eligible for employment in a post of trust in the service of the prison, to write and receive letters and visits at decreasing intervals of time, and to earn a gratuity, increasing in each stage, up to ten shillings in ordinary cases, and for work of special value up to two pounds.

This was a veritable charter of rights at that time for all who were willing to

A CHARTER OF RIGHTS 51

profit by it. At the end of two years working the effect of the Stage System on the punishment list was also very striking and satisfactory, as may be seen by this table:—

Local Prison Punishments.

Year.	Corporal Punishment.	Punishment Cells.	Dietary Punishment.	Loss of Stage Privileges.	Daily Average Population.
1879	145	5164	36,830	16,908	19,818
1880	121	2320	24,693	22,550	19,835

The privilege of earning remission of sentence, which was subsequently granted to local prisoners, and gradually extended, until at present it applies to all sentences of more than one month, afforded much additional encouragement to good work and good conduct. My own brief experience of its application to short sentences was very favourable, and showed that female prisoners at all events appreciated its advantages probably more

52 CRIME AND CRIMINALS

in the shorter than in the longer terms. The average prisoner, indeed, seems to have a somewhat limited range of vision in the forward direction, and thinks much more of next week than of next year in matters of this kind. Even suffragettes disliked the idea of forfeiting remission marks, more especially if forfeiture prevented their going out of the prison with their own batch, so as to miss the welcoming strains of the band in the Camden Road, not to speak of the convivial breakfast that followed.

CHAPTER III

Sanitation—Increase of medical staff—Treadwheel—
Unproductive labour—Mat-making in prisons sacrificed to the competition clause of the Act of 1877—
Discipline had to be reconciled with industrial progress—Orders for work from Government departments—Development of industries—Associated labour—
—Classification—Grievances.

MANY other subjects claimed attention from the Commissioners at this period, such as better means of instruction for prisoners, improvements of prison libraries, systematising the methods of Discharged Prisoners Aid Societies, and sanitation. Of these the last mentioned was an urgent problem. Several of the prisons that were retained were of old construction, and far from being up-to-date in their sanitary arrangements. We read of one, in the first report of the newly appointed medical inspector, which had water pumped into the cells from a river

54 CRIME AND CRIMINALS

at a point 200 yards below the outfall of the county infirmary, where there had been a constant succession of typhoid cases for a long period. In that year, 1878-79, there were fourteen cases of typhoid fever in the prisons, five of which were in one prison in an infected district. The death-rate, nevertheless, at the end of this first year of administration under the new authority was reduced to 8·3 per 1000 of the daily average population—the lowest of any year on record at that time, and 2 per 1000 lower than the average of the previous five years. No more valuable test could be afforded of the effect of the recent changes in hygiene and dieting. A new scale of diet had been adopted on the recommendation of an expert committee, and it was at once introduced in all prisons.

In later years the mortality was still further reduced. In 1895-96 it was as low as 6·3 per 1000, and in 1908-9, 4·8. For many years past any zymotic dis-

eases that may appear in prisons are almost invariably imported from outside, and they never get a foothold under the sanitary conditions that have been adopted in all prisons. If, in fact, prisons were judged on their health records only, they would appear to be sanatoria outside of which health proper is unattainable.

The medical staff of the prisons generally had to be largely reinforced under the exigencies of the new system. Several of the large prisons were still under the medical care of general practitioners, who could not devote to their duties as much time as the details of work, inseparable from government control, demanded. Not only was a very strict physical examination of each individual necessary before he could be classed for work, but every detail had to be duly recorded on reception, and all particulars of subsequent applications, as well as a clinical history of his case, if he went to hospital, had to be written down, on the general principle that his

prison medical history should be available in a complete form. Periodical reports and returns were also regularly established, and the work all round was doubled—in the interests of the prisoner. It became necessary, therefore, to appoint to the prison service medical officers who could give all their time to the work in the large prisons. Some of the older subordinate officers looked askance at many of these innovations, which encroached on their time, and for which they could not see the necessity. I came in contact very soon with one of them who took me under his protection and guidance on my joining for duty at a large prison. My proceedings at first amazed and scandalised him. That I should want to strip and examine individually a string of seventy or eighty men, and enter particulars of each there and then, seemed to him pure unreason. He told me the number of years he had been in the Reception Ward, and, out of the depths of his experience, solemnly

warned me that all prisoners alike were “blag - yards and impostures” — his favourite generalisation — that my predecessor had had “too soft a ’heart” (with a pitying look that implied his head was no better), and so on. He kept a jealous eye on my entries exempting men from the treadwheel, which he looked upon as a moral panacea of the very best kind. A vagrant, who was very well known to him, having presented himself one day suffering from heart disease, I duly excused him this kind of hard labour. When I told the officer, in reply to his usual inquiry, that the man had heart disease, he looked very sceptical, and then said—“Well, I believe he put it on coming up in the van.” It was inconceivable to him that the heart of a vagrant, which is not generally overworked, should be subject to any disease. During the time I was at his prison, this recalcitrant old officer stuck to his ideals, and never took to “newfangled notions about vetting a

parcel of blag-yards and impostures as if they were enterin' for the Grand National."

It is rather remarkable that the tread-wheel, which is now looked on as a mediæval relic, should have so long survived the progressive tendencies of the times. This was the fault of the legislature rather than of the administrators, for the Act of 1877 still recognised first-class hard labour, of which treadwheel work was the statutory type. At this time, indeed, the wheel was a glorified kind of machine. We read in one of the reports that it was "the most successful application of human force as a force, and that no shirking was possible," &c. Other expedients for enforcing first-class labour, such as cranks, capstan, shot drill, &c., were in use at many prisons, but it was recommended by an advisory committee that the treadwheel should in future be the recognised machinery for the purpose.

My personal experience of its working

was that for novices, or for men who had recently been drinking, it was a very trying, if not a dangerous, form of labour. For all it was demoralising. I have frequently, when inspecting men at the work, taken off novices and alcoholics bathed in perspiration, and apparently terrorised, whilst old hands close by were not turning a hair or showing any signs of distress whatever.

The theory that hard labour, in order that it may be penal, should be at the same time monotonous and uninteresting, is perhaps intelligible, but an idea that seems to have been uppermost in the minds of the legislators who invented it was that it must be unproductive also, in order to impress on the prisoner the fact that he is grinding the wind, and that his labour is in vain. This was a kind of mental discipline that was not likely to have other than an irritating and demoralising influence on the prisoner, while it was causing all the time deplorable waste

from an economic point of view. And yet it was not till 1896 that active steps were taken for the gradual abolition of unproductive crank and tread-wheel labour. At the same time similar steps were taken in regard to oakum picking, which was not an improving occupation, and had ceased to be remunerative.

It was, however, the Act of 1877 which paved the way for this reform, that was so long in coming, in regard to unproductive labour, by laying down that "the expense of maintaining prisoners should in part be defrayed by their labour, and that useful trades and manufactures should be taught, so far as consistent with penal discipline and the avoidance of competition with outside industry."

It will be seen that the primary aim of this new industrial scheme was to make the prisoner contribute to his own support, while the work done must not compete with any similar

industry carried on by free labour. Mat-making was a leading industry in the prisons at this time. It was easily taught and learned; it could be carried on either in cells or workrooms; it was also remunerative, and was altogether a very suitable kind of employment for prisoners; but it had to be gradually sacrificed in deference to the competition clause. This made the problem somewhat difficult for the Commissioners. Government trading at any time is hampered by so many official checkings and red-tape regulations that business enterprise is generally lulled to rest in its early stage, and the whole system is so elaborate in detail, and costly in consequence, that profit-making is next to impossible. But penal discipline had to be maintained at the same time. To have transformed prisons into manufacturing establishments without this necessary precaution would have been a fatal error. I had some experience of such an experiment at one prison

which had been conducted by the local authorities on a self-supporting, if not a profit-making basis, under a governor who had considerable business capacity. He made gas for the establishment, he had a successful iron foundry, and carried on carpentering and cabinet-making on an extensive scale, turning out handsome walnut wardrobes and tables, and he had even made a billiard table. He had, besides, some minor industries, among which was sugar-chopping, on which he made a respectable profit, although he reckoned that a new hand at the work ate the full profits of his own industry for the first two days, after which surfeit he became temptation-proof. The prison was a hive of industry, and the bees seemed to enjoy a corresponding sense of freedom. Escapes, and attempts to escape, were of frequent occurrence. I met one morning at the gate two prisoners unattended, who had been working outside the walls with another prisoner under

the supervision of one officer. They were ringing the bell and clamouring to be taken in. It appeared that their companion had bolted, with the officer in close pursuit, and that the latter had instructed them to come in and report the escape.

The Commissioners by degrees managed to reconcile these conflicting conditions by extending the manufacture of various articles required for prison use, and by taking orders for work from other government departments such as the Admiralty and the Post Office, so that at present they have what might be called an old-established family business, conducted on lines that are official and yet remunerative to the State, so as to give sensible occupation to the prisoners under their charge.

The general effect of these beneficent arrangements has been to alter fundamentally the character of our prisons, and to give them a reformatory and educative complexion which they did

not possess in the unproductive labour era.

By way of illustrating the existing industrial activity of our prisons, I take the following particulars from the latest report of the Commissioners. The value of the labour performed by prisoners during the year 1908-9, including work in the service of the prisons valued at £64,118, amounted to £244,117, and the average annual earnings per prisoner at productive and domestic work amounted to £13, 2s., included under the headings of "manufacturing, farming, building, and service of the prisons." The Comptroller of Industries reports that he is doing his utmost "to carry out the wishes of the Legislature by using industrial training as a leading factor in the reclamation of the criminal classes."

It will be obvious from the facts here stated that our prisons have already become Houses of Correction in a much wider than the usual and conventional sense, and that, without losing their

penal characteristics, they have acquired more of an industrial stamp, so as to train their inmates to the work habit, and fit them for useful employment on discharge. The pecuniary advantages accruing to the public from this change of policy in regard to prison labour are not in themselves inconsiderable, but they are quite insignificant when compared with the physical, moral, and industrial benefits conferred on prisoners.

Further effects of these working changes were the development of associated labour, and, incidentally, the abandonment of ideas formerly held as to the extreme dangers of contamination, to obviate which the separate system had been specially devised. Careful supervision and classification are now designed to counteract these risks, while the industrial advantages offered to prisoners are expected to outweigh them.

Classification is at present carried out on elaborate, if not complicated, lines.

66 CRIME AND CRIMINALS

The Prison Act of 1898 arranged offenders in three divisions, according to the nature of their offences and antecedents. They are further classified for administrative purposes in prison, with a view to keeping occasional and habitual prisoners apart, and separating the young from the old. I remember, some years ago, talking to a senior governor, who was attached to the separate system, on the subject of a better system of classification. He told me there could be none better than the existing one, as every man in his prison "had a class to himself" so long as the governor was allowed to keep him in a separate cell. Things have changed considerably since the time when this rigid doctrine was held by any one in authority.

In noting these signs of progress it is not my purpose to exaggerate the merits of the prison system, or to imply that it is beyond criticism. Several persons who have been unhappily subjected to its arrangements have, from

time to time, in books and articles, pointed out blots and defects in it, and discussed their own grievances connected therewith. Some of these have been genuine, others trivial, but most of them are in reality inseparable from a state of imprisonment whose rules and regulations, based on statutes, have been devised for classes rather than for individuals. Hard cases occur under any system occasionally, but they are almost always capable of a kindly solution if they are temperately represented. Experience has led me to believe that the personal grievance is too often pitched in a high key, and that the more tactless a prisoner happens to be himself, the more tact and forbearance he looks for in those who are placed in charge of him. The difficulties which a prisoner of a better class has to face in adapting himself to the inevitable routine, surroundings, and companionship of a convict prison, seem at first sight appalling, but, given a determina-

68 CRIME AND CRIMINALS

tion to overcome them, there is nothing to prevent him from serving even a long sentence without much in the way of grievance under the system, or of friction with the authorities, that is not of his own making.

The following apposite remarks are quoted from a letter, written to his friends in 1877, by an educated convict, who was then paying his first and last visit to a prison: "This is my last letter from this place, and you may easily imagine I am not sorry, although my life here has not been too 'oppressive to endure' (to quote your own words), as you seem to suppose, and I have many things to be thankful for. I have always refrained from saying anything about my treatment here in case a wrong construction might be attached to it, and that some selfish motive might be attributed as the actuating cause; nor would I do so now but for the expressions made use of in your letter, and seeing that I am

leaving the place in a few days, no misinterpretation can ensue. I shall ever remember with the liveliest gratitude the kind, the generous, the considerate treatment I have received from the officials here. . . . I have always treated the officers with the respect to which I consider they are entitled, and, I am glad to say, I have always been met in a corresponding spirit. I have kept altogether, or nearly altogether—certainly as much as I possibly could—aloof from the other men, and I can safely say I have not had a single jarring word with any one. I can with all honesty say, on the one hand, that I have not infringed one single prison rule, and I can with equal honesty say, on the other hand, that I have not once been found fault with, or interfered with in any way, and, while I admit that the rules are strict—and necessarily so—I deny that they are oppressive. At least I have never found them so. It is only on those who break them that their

severity falls with any degree of pressure, and then only they become oppressive, and justly so, or discipline would be at an end. I beg you to understand that my former position in life has had nothing to do with my treatment. I have never founded my claim to treatment on my former position in society, but simply upon my conduct, and I consider the treatment I have had, and which I so thoroughly appreciate, has been extended to me on the ground of conduct alone. After all I have simply done my duty. I leave the place without a complaint, and I have no hesitation in saying that every man acting in a similar manner might be able to make a similar statement in leaving this."

He told me exactly the same story on leaving. At the time when the above lines were written, discipline was of a much sterner and harsher type than anything I have witnessed in late years. "T'offs," or "gentlemen lags," as they were called, generally got on

well with their fellow-prisoners if they did not give themselves airs on the strength of social position or prowess of any kind, but "side" was quite as much barred amongst prisoners as it is amongst schoolboys. One prisoner writes thus in reference to a swaggerer: "Everything, in his opinion, on the existing system, was too good for others, nothing sufficiently good for himself. 'Look at me,' he said, 'and you behold a man; regard the hang-dog looks of those around me, and you see mere abortions of humanity. I have to endure all the evils of such an association without the advantages of companionship. I am perfectly isolated. I cannot find an equal in the place.'"

I gently hinted to him that many of the men had once been as respectable as himself, and were as fairly educated. "Mere clerks and snobs," he replied, "whose knowledge bears the impress of the prison." "I," said he, "have gone through a college course, I am highly

72 CRIME AND CRIMINALS

connected, and possess ample means outside. Don't class me with such fellows. There should be distinctions, the mass are treated too well, and what is wanted is special legislation for the select few."

The writer goes on to say in reference to the swaggerer: "I need hardly say I have no sympathy with this self-dilatation, and I regret to find that gentlemen convicts are largely inoculated with it. 'Classify us' is their continual cry. But how are they to be classified—as the greater or the lesser rogues of society?"

CHAPTER IV

Habituals in convict and local prisons—Preventive detention—The attractions of a life of crime—Jewish convicts of an idle type—Psychology and motives of the professional criminal—Insanity—Habituals useful in prison—Drink and crime.

THE differences in degree of criminality between the inmates of a convict prison and those of a local prison are so marked that passing from one to the other is like a transition from University to Preparatory School. Convicts are, as I have shown, almost all habitual criminals, while local prisoners have, for the most part, so little of the criminal in their composition, that they hardly deserve the name, and yet both kinds of prison contain habitual criminals, but with this difference, that convict habituals are of the "professional" kind, while local habituals are drawn from those prac-

tising in the lower walks of crime. It is the former of these, the professionals, who have hitherto caused most perplexity to legislators and prison reformers—no treatment or punishment yet discovered, not even the death penalty, having been successful in curing them as a class of the crime habit. Thousands of them were exterminated in the eighteenth century by the hangman and gaol fever, but they nevertheless continued to flourish up to a comparatively recent date.

From what I have already said as to the enormous decrease that has taken place in the last three decades in the numbers of convicts, it will be obvious that professional criminals cannot have actually increased in numbers, but it is well known that they commit more offences. The reason for this is not far to seek. The law has, in fact, to a large extent favoured them, and facilitated their operations. The Summary Jurisdiction Act, which was so beneficial in most respects, by reducing the length of

their sentences, at once had the effect of extending their spells of freedom, and so multiplied their opportunities for the commission of crime. Hence we have a more limited number of criminals committing a greater number of offences.

It seems to be generally accepted that a person who deliberately adopts crime as his profession, and earns his living by it, is, to all intents and purposes, a moral incurable, "whom the criminal law cannot either reform or deter from crime" (to use the words of the Editor of the Judicial Statistics). Those who have been practically acquainted with him and his ways in prison, knowing how irreclaimable he is, and what attractions his calling holds out to him, have for many years advocated a longer sentence purely in the interests of the community.

This object will in future be equally well attained, and in a more humane way, by the new plan of preventive detention. It is probable that by tackling the evil at both ends—reducing the number of

recruits for crime on the one hand, and limiting the depredations of those who are engaged in it on the other—some impression may at last be made on the professional criminal. That he will ever be abolished, so long as sporting instincts are implanted in the human breast, is a pious aspiration that is never likely to be realised. Men have frequently gambled with their fate for much more insignificant stakes than the profit, pleasure, and excitement which most of these criminals expect to derive from the exercise of their art.

I met with one interesting specimen of this class, whose speciality was stealing from the person, for which offence he had already, at the age of thirty-four, undergone several sentences. He said he could get as much loot as he wanted on London Bridge on a Saturday afternoon, by relieving old gentlemen on their way home from business of their watches, while they were giving him minute directions as to the best way to Guy's

A PRACTISING PICKPOCKET 77

Hospital. He spoke of it as "sport," and entered into the details of the technique of the business with such gusto as to lead me to infer that no other kind of sport was worth cultivating. He was very smart and intelligent, had picked up a good deal of education in prison schools, and he was wearing a blue dress which is the highest distinction a convict can gain by industry and conduct. He acted as hospital orderly, and he could reel off the register numbers, names, sentences, and diets of nearly every one of the fifty patients. So willing and useful was he at his duties, and so ready for work night or day, that he would have been invaluable out of prison as an all-round-handy-man, but for his fatally wrong-headed notions of "meum and tuum." A moral sense was however completely missing from his equipment. I tried to get at the back of his mind as to the actual rights or wrongs of watch - stealing, but he brushed the question aside as an abstract

speculation that was not worth discussion, assuring me that there was absolutely "nothink in it."

His views of the matter summarised were to the effect that the whole thing was "a game," and a "good game too," that a gold watch, as such, was quite useless to an old gent who probably had a clock at his office, another at home, and the use of the clock at the station as well, that a tin watch would serve his occasional needs quite as well: further that he had no absolute right to the watch if he could not take care of it, that it was all "a fair game," that if he himself were deprived of a watch under similar circumstances the game would still be quite fair though he would do his best to "get even somehow." He added that the proper destination for a gold watch was the shop of a "fence" (receiver of stolen goods), who would resell it to some other imbecile so as to give the prisoner an opportunity of earning a living. He admitted that

he knew the business was illegal because he had "done time" for it, but he maintained that street betting was just the same thing, and he could see no harm in either occupation. Finally he advised me "never to 'ang out my jewels."

If I had any lingering doubt as to his own full and honest belief in his "fair game" theory, I had none whatever as to his expressed intention of putting it in practice again on the earliest opportunity.

Habitual thieves frequently prey on each other even in prison if they get a chance, and act apparently on the "fair game" theory amongst themselves. "Pinching" food is a favourite trick. A story was current at one prison of an old hand who, trading on the inexperience of a newcomer in the next cell, ordered him, in a voice like that of the officer who had just served dinner, "to put out his pudding (suet) to have the treacle on it!" and then snatched the pudding, and gobbled it up.

Another professional criminal who supplied me with a fragment of autobiography, and who was at the time under a sentence of seven years for house-breaking, was of a very different stamp. He was a lazy and good-for-nothing fellow in prison, an inveterate grumbler who was also an expert in evading work, and who, when pressed or bored, feigned insanity—his favourite trick being to address the Secretary of State by petition in language so incoherent and nonsensical as to suggest that the mind of the writer was gone. He began his story by depicting to me in rich colouring the 'orrors he had been through in a former penal sentence at Chatham, where the infirmary was a regular "simmitary." He said he had been taught the trade of hat-finishing, at which he could earn good wages, that he had tried work after his last sentence, but the police hounded him out of employment, that there was no peace for ticket-of-leavers in London where "detectives male and

female were standing on each other's heads." He was very glib and fluent in speech despite the unintelligible petition he had just written, and he went on with great zest to give me an insight into his work—not hat-finishing, but the other industry in which he took more pride apparently—premising that, after being driven from post to pillar, he had been obliged to take to "his old life." Having fitted himself out with a new suit, a carpet-bag, jemmy, centrebit, and a few other requisite accessories—all provided out of the proceeds of a "job in town"—he set out for Salisbury, where, unfortunately for him, before he could do a stroke of business, he was taken, owing to his bag being found open in a public-house in which he was playing bagatelle while waiting for darkness. He lamented this "shameful" ending of his enterprise, but he went on to describe the use of the bit, and showed me how the panels could be taken out of most doors quietly with a sharp chisel by cutting with the corner

part across the grain of the wood, and then splitting it at right angles. A strong steel belt or chain, he said, was useful for breaking or bending iron window bars, a jemmy being used as a lever for tightening up. To be well dressed, he impressed on me, is everything. All this he gave out with the fervour of an enthusiast who takes a genuine pride in his profession. At the same time he skimmed very lightly over the little indiscretion in neglecting his tool-bag—an oversight as to a practical detail which upset all his scientific theories and calculations in a way that recalls Wendell Holmes's aphorism: "Science is an excellent piece of furniture for your upper storey if you have common sense on the ground floor."

For pertinacity and endurance in grumbling, complaining, and begging for favours, the Jewish convict of the idle type has, according to my experience, no rival. Day after day will he renew his prayer, plea, and plaint with

all the perseverance and importunity characteristic of his race. Men of this kind, if they are employed at work which they do not like, but for which they are quite physically fit, pester every official in reach for change of work, then petition the Secretary of State, at the same time writing to their friends outside, and instructing them also to write to the Secretary of State, and telling them exactly what they are to say in their letter, and further to get it backed up if possible by a certificate from a doctor, or from some friend who understands the prisoner's precarious state of health. If all these steps fail, they make an *ad misericordiam* appeal to their Rabbi, saying that none of the authorities understand their grievance, or give it the attention it deserves, and they extract a promise from him that he will intercede with the medical officer on their behalf. For a week or two they may continue the uncongenial work, with frequent visits to the doctor by way

of temporary relief, and then they will renew the whole series of proceedings with undaunted courage.

I had a visit one day from the Rabbi in reference to one of his flock who was a patient in hospital, and who led me all unconscious to aid and abet him, as an accessory before the fact, in the commission of a grave religious offence. The Rabbi said he understood that the prisoner had asked me for some bacon for breakfast; I at once replied "Yes, I gave it to him." "But," said he in solemn tone, "it is *bacon!*" Then, for the first time, the impropriety of the proceeding dawned upon me, and I did not like it. I had, from my narrow standpoint, looked upon the prisoner as a patient simply, without any regard to his religion. I saw the prisoner at once and asked him why he, a Jew, had applied for bacon. He said that it was of course contrary to his religion to eat it, but that he did not carry a religious detail like this into his private life, that he ate

bacon outside when he wanted it, and he gave me to understand "he did himself well" generally. Finally he offered to give me the name of a firm who would supply me with an excellent dry champagne at a knock-down price. His breakfast bacon was, of course, stopped, but he got a substitute.

The trading and dealing instincts of Jews even in prison are often in evidence. One of them, for instance, writes to his friends a lugubrious letter describing himself as on the verge of the grave, and he adds in a postscript: "'Ow are poplings and morey-antiques doing this year?"

Another is willing "to forfeit his library books" if he can have tea instead of gruel, and another wants light labour with full labour diet, saying that "he will do without medicine" in future by way of compensation.

One of these Jewish convicts had a perverse ingenuity, which he exercised freely, in giving as much trouble as he could give safely, without incurring re-

port, to officials in general. He seemed to make out his agenda regularly every morning, settling which officials he was to interview in the course of the day, what he was to ask for, what conundrums he was to put, and so on. All this was carried out with an air of innocence and plausibility, behind which lurked some scheming and mischievous intent. He had an unctuous politeness of manner, and would thank you for your courteous refusal of his request as if you had conferred some favour on him, but he would subsequently transform what you had said to him into something unrecognisable, and lay it in petition before the Secretary of State in his revised version, knowing well that it would be referred to you for explanation and give further work.

Medical comforts were his besetting weakness, so that, if he chanced to have any temporary disqualification for work which brought him within range of infirmary treatment, it was difficult to keep

him out of hospital. Once safely in, he dropped all speculative inquiry, and devoted himself to the improvement of his diet and the prolongation of his stay—intriguing meantime for a conflict of opinion between the medical officers in regard to his case, out of which he could gain both time and profit. According to his own account he had most of the organic diseases—his body was, in fact, a sort of museum of pathology—and he gave the names of several physicians and surgeons who had attended him for these various diseases. If he got an ordinary cold he could produce a startling cough of a barking kind, which could be heard a long way off during the medical visit, and he could put on an agonised expression of suffering that was inconsistent with his symptoms, but it was not safe to leave him alone for a moment with a clinical thermometer, as he was found to have tampered with it, so as to make it register very high temperatures, on more than one occasion. Never did he lose an

88 CRIME AND CRIMINALS

opportunity for writing a letter or petition, nor an inch of the space allotted to him for these purposes, and he was also in the habit of filling both sides of his slate with rambling and irrelevant accounts of his grievances, in which legal and medical terms abounded. As his handwriting was so minute and closely packed that it was difficult to read without a magnifying glass—though he constantly complained that he was almost blind—he could make these statements voluminous, and he used his gifts freely in this way to waste the time and try the patience of those who had to read them. His temperament was of a very restless type, and he chafed under the restrictions of imprisonment and seclusion from the world, but he seemed to console himself by cultivating vexatious methods, so that he should not suffer alone, and whatever time he had at his disposal after these studies he appears to have devoted to the evasion of his allotted work, so far as this could be achieved without incurring

penalties. A more crafty and irritating prisoner could not be found even amongst convicts.

It would be futile to attempt any scientific explanation of the professional criminal or of his psychology. There are people, of course, with advanced views—and they are likely to hold a commanding lead for some time—who adopt the comprehensive theory that all criminals are *ipso facto* insane. This theory certainly does not fit the case of the professional criminal who lives by his wits. Society, having to deal with him in the concrete, and to repress his anti-social instincts and practices, cannot look on him as an unaccountable being, without altering materially our present standard of sanity so as to include a host of other abnormal persons, including perhaps a sprinkling of the advanced thinkers themselves. It is easier to ascribe his peculiarities, on the one hand, to heredity, and label him “an original sinner,” or “a congenital thief,” or “an instinctive criminal,”

or, on the other hand, to parental neglect, or to vicious environment, and pronounce him "a waste product of a defective social system," than to analyse his code of ethics, or his way of looking at the problem of existence. It is at all events certain that his line of life has for him some mysterious attraction, or rather fascination, which induces him to face risks that normally-minded people would contemplate with horror. He is, to all intents and purposes, a gambler of a very reckless sort, who counts neither cost nor risk, and he constantly returns to the tables to recoup his losses, or perhaps break the bank, if luck favours him. He has apparently no hope of acquiring a competence, but merely a satisfactory haul which will enable him to have a good time so long as he is at liberty. "Hand to mouth" and "sufficient unto the day" seem to be his working formulæ. It is only in fiction we read of the ex-convict retiring to the country, becoming a churchwarden in his parish,

and a village philanthropist, and abandoning his predatory habits in favour of the milder excitements of a rural existence.

It was said that the notorious burglar and murderer Charles Peace had at one time an ample fortune, but, despite the hairbreadth escapes he had from capture on several occasions, he ran to meet his fate on the gallows with unerring certainty in the end.

Habitual criminals, as a class, supply a very large number of physical and mental defectives to the prison population, but the professional criminal section does not figure largely in the insanity statistics. Out of a convict population of 3100 in 1908-9, 23 convicts were certified insane. Of these 11 had been guilty of violent offences against the person, 5 of offences against property with violence, and only 4 of offences against property without violence.

Similarly out of a local prison population of 18,923 prisoners, 135 were certified insane. Of this number only

92 CRIME AND CRIMINALS

12 were guilty of fraud, burglary, house-breaking, &c., while 40 had been convicted of petty larceny, 30 of vagrancy, and 12 of drunkenness.

The man who adopts crime as his vocation is by no means a useless person in prison. It is to him chiefly that prisons are indebted for that shining cleanliness which characterises them. He scrubs the floors, polishes the iron-work, and is ready and expert at all the hundred and one jobs which ordinarily devolve on the housemaid. He also cooks the food, bakes the bread, serves the diets, repairs the boots and clothes, attends the sick, works in the shops, and looks after most of the sanitary needs of the establishment. All these duties he performs with readiness and alacrity under the supervision of his officers, who, for the most part, prefer an old hand for these purposes. From the outset of his sentence he aims at getting work out of his cell, and he concentrates all his energies on this

object, so that he may have as much freedom as prison life allows. His great failing is tobacco, and if he can only avoid trafficking for this, and keeping clear of a few other pitfalls which, unfortunately, his state of comparative freedom may place in his path, he can generally do his time, as he puts it, "on his head," which is his peculiar idea of ease or comfort. Why he cannot earn a living out of prison by steady work such as he willingly does in prison is one of those mysteries still awaiting solution. I have known a man of this class, who was a skilled hand at cabinet-making, and turned out some excellent work for the prison during each of his sentences. He could certainly have earned wages outside that would have kept him far more comfortable than he could hope to be in prison, but nevertheless he came back time after time. So painstaking and trustworthy was he at any job on which he was employed, that his officer lamented when his sen-

tence was expiring, and looked forward with pleasure to having him back again, knowing, as he did, that he was certain to return before long, like a moth to a candle.

Many people hold that drink is the main cause of crime, as well as of pauperism, insanity, and various other evils, and that the spread of temperance is the best remedy for the prevention of crime. This is to a large extent true in regard to special offences. It must be remembered, however, that excessive drinking, which is undoubtedly a direct as well as an indirect cause of much sin and suffering, is by itself reckoned as a crime in our criminal statistics. The excitement it produces accounts for many crimes of violence. Further, the mental and moral deterioration which eventually overtake the confirmed drinker, coupled, in many instances, with pecuniary losses and other misfortunes, often drive him to criminal habits. But we must not infer too hastily that even entire sup-

pression of the drink traffic, if such a step were feasible, would necessarily lead to the elimination of the professional criminal, or to the suppression of the kind of crime which he practises. The very worst kinds of crime—those which demand the exercise of the highest skill, as well as those which are marked by the deepest depravity—are too often found to be the work of those who have never indulged in excessive drinking.

CHAPTER V

Habituals in local prisons a different class—Vagrants and our methods of dealing with them—The incorrigible rogue—Habits of idleness less in females—Weak-minded prisoners—Physical defectives—Drunkards—Failure of the Inebriates Act—Sifting-out needed in prisons to aid reformation of criminals.

HABITUAL criminals, as we have seen, predominate amongst convicts. They constitute also the backbone of the local prison population. Here, however, they are of quite a different character, and represent, for the most part, minor grades of criminality. Vagrants, petty thieves, swindlers, begging impostors, rogues and vagabonds, violent and disorderly drunkards, are constantly returning to prison on short sentences so as to be regular habitués of the prisons. There are, of course, hosts of other offenders who may be paying their first and last visit, and who are criminals only by

courtesy. The entire population, however, represents a much lower degree of criminality than that of the convict prisons, as may be seen by an analysis of their sentences:—36 per cent. of the males, and the same percentage of females were sentenced to one week or less; 62 per cent. of the males, and 64 per cent. of the females to two weeks or less; 93 per cent. of the males, and 97 per cent. of the females to three months or less. Only 5·6 per cent. of the males, and 2 per cent. of the females were sentenced to six months and over; and 1·18 per cent. of the males, and ·14 per cent. of the females to over a year.

These criminals and delinquents form a very mixed and uneven company. From the murderer awaiting sentence of death, to the weak and erring inebriate with a fine of half-a-crown or three days' imprisonment, there are many gradations. All sorts and conditions of men and women are found amongst

them. Although the great majority are drawn from the lower social strata, members of the middle and upper classes put in occasional appearances, and add their quota to the ranks. I have myself seen lawyers, parsons, doctors, bankers, captains of industry, financiers, members of parliament, and even, on one occasion, a bishop, who was, however, black in colour and unsound in mind, and unfit to be at large at the time when he committed his offence. Mixed with these there are, of course, all kinds of petty offenders against public order.

The proportion of habituals amongst them is considerable. Men show a percentage of 57 with previous convictions recorded against them, and women a percentage as high as 78. Drunkards, petty thieves, offenders against the Poor Law, and vagrants, account for the most of these figures. The habitual vagrant is at present attracting much attention. A departmental committee was appointed in 1905 to inquire and report on the

subject, and the Poor Law Commissioners, in their recent report, have also adverted to it at considerable length. No less than 25,168 prisoners, or one-seventh of the commitments from ordinary courts were convicted of begging and sleeping-out in 1908-9. No legislation has yet been passed for dealing specially with this unpleasant development of vagrancy, but it is suggested that the habitual vagrant should be treated in future, not as a criminal, but as a person needing detention on account of his mode of life. For this purpose he is to be defined by statute and identified by the finger-print system. At present this class of prisoner seems to prefer prison to the casual ward.

Whatever views may be held in regard to ordinary criminals—whether they are to be considered sinners by choice, or merely failures of civilisation—there can be no reasonable doubt that society is largely responsible for the manufacture of the vagrant class. Our methods of

dealing with them hitherto have been inept and futile, and the encouragement which has lately been given, in the form of eleemosynary doles, to unemployed and unemployable indiscriminately, has tended to the demoralisation of thousands, and converted them into hopeless vagrants. The secretary of the Church Army describes a visit he paid recently to the Thames Embankment, where his own officers, and those of other philanthropic societies, were engaged in relieving the distress of the unemployed. The Church Army offered immediate relief in rest and food, together with a helping hand to the gaining of permanent employment, to those who promised to do a reasonable amount of work in return, and to show their fitness for any special efforts being made in their behalf. The representatives of other societies offered rest and food to all unconditionally, with the result that some 1500 men accepted their offer, while 60 only accepted that of the Church Army.

WEARINESS IN PRISON 101

No better illustration could be given of the manner in which paupers and vagrants are manufactured by well-meaning but misguided people. The loss of industrial efficiency which is fostered in those who are out of work by this method of treatment is appalling, and it leads to a moral deterioration of the individual that can only be compared to that resulting from the drink habit.

Tramps and vagrants, casual ward loafers, and the whole tribe of beggars, are quite as impracticable in captivity as they are when at large. They are the despair of prison officials. The incorrigible rogue is a type of the species. Accustomed to beg, or to make children beg for him, he is incurably idle and lazy, and apparently the most useless and hopeless of mankind. He refuses to work or keep his cell clean, he bathes with great reluctance, and he can sit for hours together in a state of dreamy inactivity with his task of work staring



him in the face. Crank labour used to be specially odious to him. He would frequently spend a day trying to unscrew the covering parts of the registering machinery with a trousers button so as to get at the indicator and move it on. All his movements are slow, and even his heart seems to beat at a jog-trot kind of pace by which, I have often thought, I could diagnose him with the stethoscope. I remember one of them who was ordered fifteen lashes, in addition to a sentence of nine months hard labour, for a revolting attack on a child. He told me when examining him that he had been "tenderly nurtured," and that he feared flogging would either drive him mad or kill him. Strange to say, however, he went through the ordeal in quite an unexpected way, counting the lashes himself in a loud voice, and always keeping one ahead of the chief warder — remarking at the end that numbers seven and thirteen were the worst. The haste he displayed in his

counting was the only sign of activity he gave during his sentence.

The chronic fatigue of these offenders in prison is strikingly illustrated by the returns of offences, included under the heading of idleness, for which the vagrant class is mainly responsible. The total number of these offences in the local prisons in 1908-9 was 17,448 males, and only 92 females. The increase for the year in the number of vagrants received was 4178, and the increase in offences for idleness was 1360.

Incidentally the figures show that men in prison are much more idle than women—a conclusion which quite coincides with my experience at Holloway, where reports for idleness were very rare, more especially amongst those who worked in association and took an interest in their employment. Many of these women turned out an amount of work that much exceeded any task that was likely to be set for them by the prison authorities. I find that out of a

total number of 12,539 females received at Holloway in 1908-9 there were only 22 cases of report for idleness—a sufficiently conclusive indication of all-round activity and willingness to work on the part of these women. It may be observed in this connection that offences against the Poor Law Acts and under the Vagrancy Acts—if begging be excepted—are not common amongst women.

Amongst these local prison habitual offenders there are many who are of such a low intellectual and moral type that they are in many respects irresponsible and practically on the borderland of insanity. This class of habituals supplies the main part of that three to four per cent. of weak-minded persons who are found in the prison population. The care and management of them under the conditions of a sentence of imprisonment are a source of much trouble to the prison authorities. They are for many reasons unfit for isolation in cells. They

object to a regular task of work, refuse to keep their cells or persons clean; they cannot be induced to arrange cell furniture in the uniform fashion prescribed by the rules, and they are much given to whistling, shouting, and singing in their solitude, so as to disturb the quiet of the prison, and provoke other prisoners to imitate their example. They are very impatient under, if not wholly insusceptible of, penal discipline, and constantly incur reports for breaches of the rules, and become protegés of the medical officer who has to screen them from punishment. There are several epileptics, and there are besides, many aged and infirm, who are in the early stage of senile dementia, as well as youths who are congenitally deficient in intellect, and whose chief education has been in criminal habits.

The general practice in large prisons is to place them in gated cells with an officer patrolling to keep them in order, or to have them in an association ward

106 CRIME AND CRIMINALS

under the care of an officer who, by tact and patience, tries to bring them into line, and extract from their combined energy a little light work with clean and tidy surroundings. Many are quick in temper, and they quarrel with tongue and fist in an instant, often before the officer can intervene. They have as a matter of course a choice selection of bad language which it is impossible to keep in check.

Many, too, have physical defects and bodily deformities which unfit them for work. Out of prison they live by thieving and begging, and they are constantly returning with short sentences for petty offences. Some are the dupes of more knowing thieves, and find their way into convict prisons, others eventually get into lunatic asylums, but many remain on the border land, and never satisfy the legal requirements or tests of insanity. The excuses they give for misconduct are sometimes amusing. One man assaults another because he does not "like the

looks of him." Another, reported for singing while at work in the ward, says he was "only 'umming ' 'Twas in Trafalgar's Bay,' because the man next him had only one eye and one arm, and reminded him of the death of Nelson."

The practice which is followed up to the present day of dealing with weak-minded offenders is as irrational as it is discreditable to our penal system. For more than twenty years the prison authorities have been calling attention to the anomaly and the evil of sending them to prison at all. It should be patent to every one that mental defectives, who drift into criminal habits in their struggle for existence from sheer lack of a sense of moral responsibility and of self-control, are unfit subjects for any form of penal discipline, and that a penal establishment is no place for them. The law nevertheless consigns them to prison, where they are contaminated by intercourse with other offenders, and where, too, they have ample oppor-

tunities for contaminating each other. Further, the system of inflicting short sentences on them for repeated offences, entailing, as it does, brief periods of freedom during which they prey on the public, is from an economic point of view, the most costly and extravagant that could be devised. Add to the plundering of the public the cost involved in the constant repetition of arresting, charging, and conveying to prison a host of these habituals, and it will be found that every year thousands of pounds are lost without the slightest resulting benefit either to the public or to the prisoner. No legislation has yet been attempted for this crying evil, although it is evident to all criminologists that some kind of permanent control is urgently needed for so dangerous a class.

The Royal Commission which has recently reported on the care and control of the feeble-minded, recommends that feeble-minded persons undergoing

imprisonment may be transferred, after certification, to the care of the local authority for treatment in an appropriate institution. When this, and other suggestions of the Commissioners for dealing with feeble-minded children are carried out, it is hoped that these habitual offenders will at last be dealt with on more humane and scientific principles.

Another large contingent of habituals is furnished by the drunkards who abound in local prisons, and far outnumber any other class of offenders. In 1908-9 the committals for "simple drunkenness" and "drunkenness with aggravations" were close on 63,000, or about one-third of the total committals from ordinary courts; and, although there were many occasional drunkards included in these figures, the greater proportion had had previous convictions for the same offence. These occasional and chronic drunkards often seem out of place in prison, and out of touch with their fellow prisoners.

If they have been drinking freely before reception they may develop an attack of delirium tremens, but more frequently they are morbidly irritable, morose, and intractable for a few days, although at other times perfectly amenable to discipline. Warders say they are not quite sober, but it is seldom prisoners are received actually drunk. Remorse at the position in which they find themselves may have something to do with their condition. At all events allowance has to be made for their morbid state during the first few days of their sentence, or otherwise they would be driven into outbursts of violence. Women, in this stage of their cups, are utterly unreasonable and unmanageable unless they are severely let alone, and allowed to sleep it off.

However quarrelsome and dangerous this class may be when intoxicated, they are for the most part quite harmless, if not amiable, characters in prison when in their sober senses. Their enormous

THEIR POINT OF VIEW 111

numbers go to swell the statistics of crime, and yet they are not really of criminal habit, nor are they criminals by any means to their own thinking. If you inquire of them whether they have ever been in prison before, they say "yes, but for nothing wrong." *Noblesse oblige*. They will freely plead guilty to "a drop of drink," or "a few words with the missus," or "a bit of a scrap with a policeman," or to any other equivalent euphemism for a violent assault, but not to anything so disgraceful as thieving, while they distinctly imply that their misfortune is due to a mixture of sociability and frailty rather than to criminality. It must be admitted that this estimate of themselves and their conduct, which, by the way, they have held from time immemorial, is not inconsistent with scientific theory on the subject of inebriety. This theory admits a diminished responsibility on the part of the habitual drunkard, and traces inebriety to constitutional peculiarity, depending, as it

does in many cases, on qualities with which a person is born, although it may be also acquired by vicious indulgence. For this reason reformatory treatment is recommended for inebriates in preference to imprisonment. Persons who are born with the constitutional peculiarity of becoming intoxicated by the use of alcohol before they reach the stage of satiety, and who have not sufficient will power or self-control to cease drinking before intoxication, would seem to be really helpless in face of temptation. Drunkards of the occasional or convivial type, who are supposed to have this will power if they care to exert it, are more accountable beings, and more fit for prison treatment, but even in their case a continuance of the periodic indulgence eventually leads to a confirmed habit, so as to drive them into the irresponsible, or partially irresponsible, category.

The Inebriates Act of 1898 was designed to rid prisons of these habitual

drunkards who were continually returning to prison with short sentences that had no effect whatever in either reforming or deterring them. Unfortunately the Act has proved a failure in working, partly from administrative difficulties, partly from a certain tenderness for the liberty of the subject, but mainly because no proper machinery was devised for carrying out the provisions of the Act. No obligation was placed on any authority to provide accommodation or maintenance for inebriates committed to reformatories. During the first two years of the working of the Act there was no State Reformatory in existence, and recently disputes have arisen between the State and Local Authorities on the cost of maintenance, with the result that there is a regular deadlock in the working of the Act all over the country, and prisons still swarm with these unhappy victims, many of whom in the early stage of their career, and not yet at the parting of the ways, are

114 CRIME AND CRIMINALS

quite capable of being cured under proper conditions, and by suitable reformatory treatment. Unfortunately, however, owing to the way in which the Act has been worked, these are the very persons who have hitherto derived no benefit whatever from it. So reluctant have the Courts been to deprive these offenders of their liberty for the long periods necessary for cure, that up to the present only the very worst, and most confirmed cases of inebriety, which are practically hopeless as regards cure, have been remitted to the reformatories. Most of these have been sent for the full statutory period of three years, and have, on discharge, promptly returned to their former habits, so as to give rise to the impression that the Act is useless. Meantime prison authorities witness the process going on merrily under their eyes every day of occasionals being transformed into habituals, while the old habituals flock back to prison just as they did formerly under the short-sen-

tence system. The only remedy for this state of affairs appears to be that recommended by the Committee—that the State should take over into its own hands the management and maintenance of the reformatories. The inquiries of the Committee show clearly that this course would be the most economical, as well as the most efficient for carrying out the intentions of the Act; it would enable the Courts to exercise their powers more freely and confidently, and relieve magistrates of the obsession of victimising the ratepayers—a consideration which has hitherto distinctly tended to check progress.

Occasional drunkards also need some fresh incentives to sobriety, and some better methods of treatment, with a view to strengthen their will power and self-control, and to rescue them from the danger of lapsing into the regular drink habit. A sentence of three days may be adequate for a first offence of simple drunkenness, but it is a futile

penalty for a third or fourth, and it has the additional drawback that it does not even secure the important object that a man shall be quite free from the effects of the poison when he is expected to turn over a new leaf. If State control were once established over the reformatories, adequate accommodation provided, and proper working of the Inebriates Act ensured, the risk of becoming "an inebriate under the Act," which is at present hardly worth considering, would at once operate as a powerful deterrent on the occasional drunkard. In the meantime, however, he should have his will power stimulated or stiffened by a more free exercise of the powers which magistrates already possess for dealing with drunkenness and the aggravations which too often accompany it.

When all the reforms foreshadowed in the recommendations of the various Committees are carried out, and when vagrants, feeble-minded persons, and inebriates cease to be mixed up in prisons

with ordinary responsible offenders, much benefit will accrue to prisons as well as to prisoners. Another reform which I should like to add to the list is the removal of all criminal lunatics from prison to asylums. If criminals are insane they should not be in penal institutions—the very name of prison in this connection being opposed to all modern ideas on the subject of insanity. Hitherto prisons have been made a dumping-ground for every sort and variety of the general flotsam and jetsam of society which has been shot into these institutions promiscuously without any regard to fitness or ordinary justice. Prison authorities have been criticised in their attempts to classify and assimilate the motley collection, but the community has sins of its own to answer for in neglecting to sift out from the mass those who, from their limited responsibility, should not find a place in any penal institution. It is perhaps inevitable that prisons should continue to some extent to be temporary havens for

persons of doubtful mental or moral character pending the settlement of their condition, but it is quite contrary to public policy that such persons should become regular inmates of prisons. The proper use for these establishments is to be houses of detention for those who are charged with offences against the law, or houses of correction, in a liberal sense of the term, for those sane and responsible persons who commit such offences. Hitherto their smooth working has been considerably impeded by crowds of the industrially unfit who, constantly coming in and going out after short sentences, gain no benefit whatever from their brief sojournings in prison, and cause an enormous amount of work, trouble, and expense, without making any appreciable return to the State. Under different conditions, and with longer periods of detention, these wastrels can be trained to steady work of some kind, and taught profitable industries, so as to contribute to their own keep and supervision. Their

disappearance from the prisons will enable the permanent staff (which is at all times, under existing conditions, so inadequate as to need reinforcement by hundreds of temporary officers) to concentrate its energies on the instruction and improvement of the reformable criminals in custody. Incidentally the gain, from a public point of view, will be no less important. Large numbers of persons who are socially inefficient—some from physical degeneracy, others from mental deficiency, and others from confirmed inebriety—will be secluded for considerable periods, and prevented for the time being from propagating their kind ; whilst the public, on whom they depend for their living, will be spared much pecuniary loss, and much untold misery which these wretched folk inflict on their relatives and all who are connected with them.

CHAPTER VI

The Borstal System—Discharged Prisoners' Aid Society—Prison population likely to decrease when the new Acts come into force—Better classification will result—Some system of selection needed for a scientific treatment of criminals—Cost to the State of proposed changes—Failure of the short sentence system for some classes—The prevalence of an idle class—Borstal treatment for females.

OF the various reforms that have either been already adopted by the legislature, or officially recommended by Royal Commissions and Departmental Committees, with a view to the reduction of crime, I have already adverted to those which deal with criminals *in esse*—the habitual criminal, the vagrant, the feeble-minded, and the inebriate. Other measures of a similar kind aiming at the same object are:—The Probation of Offenders Act, which enables magistrates to deal very leniently with first offenders by placing

them under the care of a probation officer with a view to their rehabilitation; the Children's Act, which prohibits children under fourteen years from being sent to prison, and young persons between fourteen and sixteen years from being imprisoned, unless they are of so unruly a character that they cannot safely be sent to a place of detention as provided in the Act, or unless they are of so depraved a character that they are unfit to be so detained; and, lastly, the Prevention of Crimes Act, Part I., which deals with the reformation of young offenders between sixteen and twenty-one years of age. This last measure is of great importance. It is, in reality, based on the experimental treatment which the Prison Commissioners have been applying to youths of this age for several years past, and generally known as the Borstal System, and which has been attended with such striking success. It is based on the principles of strict discipline, tempered

with several valuable rewards and privileges for good conduct and industry. The youth is made to work at some skilled trade in which he can take an interest, he goes through a regular daily course of physical drill, and, on the moral and intellectual side, his general education is specially forwarded, while he is encouraged to read literature that is improving as well as instructive, and he hears lectures on subjects that are likely to attract and interest him. The results of the scheme, so far, have been of a most encouraging nature. The material to be experimented on looked far from promising at first sight. Most of these young offenders had already apprenticed themselves to crime, and were on the high road to lives of professional criminality, having many previous convictions against their names for acts of larceny, hooliganism, and other kinds of lawlessness. They already bore the prison stamp, and—a worse feature still—gloried in it as a distinctive mark of heroism.

Medical examination showed that they were physically much below the proper standard of their age and class, while many were afflicted with disease, deformity, or disablement of some kind. It was soon found, however, that with proper training and physical drill the slouching and undersized loafers gained rapidly in height, weight, chest measurement, and general muscular development, so as to acquire a smart, well-set-up appearance, which frequently heralded the dawning of self-respect. No better object-lesson could be exhibited of the benefits of universal military training. Simultaneously, strong efforts were made to improve their general intelligence, and to add to their mental and moral equipment, and lastly, they were armed with sufficient skill in some form of industry to enable them to make a fresh start in decent life.

Further, an After-Care Association was formed of benevolent people who took an interest in the rescue of young

offenders, and these voluntary workers have contributed largely to the success of the scheme by giving freely time, money, and personal energy, by finding work for them on discharge from prison, and by keeping a kindly and watchful eye on their progress afterwards.

A modification of the system was also devised for those whose short sentences excluded them from the full benefits of the scheme, for which a period of at least twelve months was necessary.

The practical results are that from 60 to 70 per cent. of those who were dealt with under the full scheme are known to be at work and doing well, while 58 per cent. of those under the modified benefits are also known to be doing well, and 11 per cent. only have been reconvicted.

It is a singular fact that during the last ten years in which the Borstal treatment of these young offenders between sixteen and twenty-one has been in practice, the number of male persons

of these ages received in prison on conviction has fallen from 15,302 to 12,645. The numbers of this class fluctuate a good deal from year to year, but the average of the five years ending 1897 was 16,178, so that it is clear there has been a marked decrease in the numbers recently. It may be unreasonable to ascribe this decrease solely to the Borstal System, but there are good grounds for thinking that the system has had much to do with it. We know that boys of this age are chummy and clannish generally, and that many of these youths work in gangs, which it is the object of the police, as a matter of the first importance in their eyes, to break up. The removal of the heads, or of the leading spirits, to other spheres of industry at once damps the energies of the remainder, and leads to the disbandment of the entire gang. Many of the hooligan heroes of these gangs have been dealt with under the Borstal System, and turned into respectable citizens.

It is on the substantial basis of the results obtained from this experimental treatment of these youths, started by the Prison Commissioners, that Part I. of the Prevention of Crimes Act is founded. Under this Act, the sentence passed by the Court will "be detention under penal discipline in a Borstal Institution for a term of not less than one year, and not more than three years, and the persons liable to such detention will be between the ages of sixteen and twenty-one, whom, by reason of criminal habit or tendency, it is expedient to detain for lengthened periods, under such instruction and discipline as may appear most conducive to reformation and repression of crime." The Act also gives the further power of holding these persons on licence after discharge, and it is to apply to females as well as males. Borstal prison, and parts of Lincoln and Aylesbury prisons, are declared "Borstal Institutions" under the Act.

It is expected that the Courts will

now avail themselves of the advantage offered by the Act for dealing with this difficult class of criminals who have hitherto, on account of their youth, escaped with very light sentences that have had neither a reformatory nor a deterrent effect, and that they will readily send them in future to Borstal Institutions, with the knowledge and confidence that they will have the benefit of the most enlightened reformatory treatment, without incurring the rigour of the ordinary penal discipline of a prison, or the risk of contamination by hardened criminals.

The various Discharged Prisoners' Aid Societies, which are attached to all the prisons, although they are not new agencies for the repression of crime, take a large share in the encouragement of those offenders who show any willingness to make a fresh start in life, and to give up evil ways. They helped in various ways no less than 57,774 discharged prisoners in 1908-9. Their

128 CRIME AND CRIMINALS

total income arising from local subscriptions, Government grants, and gratuities amounted to over £24,000, and over £13,000 was distributed amongst the prisoners in the form of clothes, railway fares, tools, stock, maintenance, and cash—the latter seldom. They are in close touch with the various societies which have labour homes, and also with various employers, and they find much employment for promising cases.

These Societies offer special temptations to the vagrants and beggars who do not like to see the more deserving prisoners helped, and who often have the hardihood to beg even in prison. Occasionally veterans, who look on prison as their home, will apply on the chance of seeing some one who will not probe their case too deeply, but the Societies are very expert at the sifting out business, and at economising their funds for the benefit of deserving applicants, and so they make short work of

PRISONERS' AID SOCIETY 129

old hands whose records show them to be beyond hope of reform. Clothing on discharge is a very common subject of application. I was present on one occasion when a prisoner applied to a member of the Visiting Committee, who represented the Aid Society, for a pair of trousers. It happened, curiously enough, that he had stolen a pair of trousers, for which offence he had received a short sentence, but he did not look on this fact as in any way detrimental to his claim. The magistrate, however, made some inquiry into the prisoner's domestic affairs, in the course of which the prisoner let slip a remark about "the young woman who lives with me." The magistrate, who was a stern disciplinarian, and always liked to get in a word in season, stopped him at once, and said solemnly: "Prisoner, I set such a high value on morality, that you have forfeited all claim to my sympathy," whereupon he stalked out of the cell, leaving the prisoner in utter ignorance

as to what it all meant. The language might as well have been in an unknown tongue, so far as he was concerned. Presently, however, he asked the warder what the gentleman had said. The warder told him that the magistrate did not approve of his "living with a young woman," but his only remark was: "Yes, but what does he si abaht the trahsers?"

The incident reminded me of Spurgeon's advice to the young minister not to preach so much over the heads of his congregation, as though he were addressing an assembly of giraffes.

I remember this same magistrate asking a regular street urchin who was being sent to a reformatory what was his religion. The boy did not understand, so the question was put differently—"Where do you go on Sunday?" The reply was—"Me and feyther collect rags and bones of a Sunday."

It may be expected that these various measures, which have been already adopted,

or are in the course of adoption, for the prevention and repression of crime, will in course of time exercise a very decided effect in reducing the prison population, and supplying the Prison Commissioners with the extra accommodation which they require to relieve the existing congested state of the prisons, and to provide for the preventive detention of "Habitual Criminals" for long periods under the Prevention of Crimes Act. It is clear, however, that the reforms will not result in a reduction of the numbers of our public institutions, for which England is so famous, that an observant Frenchman remarked: "One half of the people of England seem to be in institutions maintained by the other half." Nevertheless, the attainment of a better classification, and sorting out, of the waste products of society, will constitute a social reform of the first magnitude. The old indiscriminate method of scrapping the entire mass in one huge dust heap, and treating all alike was both illogical and wasteful.

132 CRIME AND CRIMINALS

It is obvious that some system of selection is an essential preliminary to the scientific treatment of such a heterogeneous collection of individuals, some of criminal, and some of non-criminal, habit and character.

The cost of these changes to the State in the first instance will probably be considerable, but when we bear in mind that the class of people to be dealt with are already social parasites, who live at public expense in the prisons for the greater part of the year, and at other times put the State to enormous expense by the never-ending series of legal proceedings necessary to get them into prison again (to be maintained again at public expense), the ultimate gain to the community in a material, as well as a moral, point of view, hardly admits of doubt. The short sentence, as hitherto applied to these offenders, has proved a most expensive remedy, and it has tended, in the opinion of those best qualified to judge, to the encouragement, rather than to the sup-

pression, of crime. It must not be thought, however, that we are yet in sight of the millennium. The ingenuity and persistency of those who are criminally inclined will either devise means of evading the law, or will urge them openly to violate the law, when evasion is impossible, without regard to risk of detection. Habitual criminals will still ply their trades; beggars, vagrants, and inebriates will still succumb to the mysterious attractions of an idle life, a nomadic life, or a drunken life, but their ranks will be considerably reduced. Short sentences will be reserved as a kind of warning treatment for beginners. Longer periods of detention, under a system resting on an industrial rather than a penal basis, will enable the authorities to reclaim the reclaimables, and, if they do not succeed in inculcating the work habit, they will at least "preventively detain" idlers from living on other people.

A particularly audacious specimen of this latter class of idler was reported at a

recent meeting of Poor Law guardians to have chalked up on the wall of the casual ward—"If Tariff Reform means work for all, then I am for Free Trade." He is unfortunately a type of a much larger class than is generally supposed. I have already shown that prisons alone received over 25,000 of them in a year. If we add to these the probably larger numbers in the workhouses of the country, and those who are at large in the intervals of their visits to these alternative institutions, we shall find that the idlers are not all at the top of the social scale, and that the numbers of the vagrant class have already reached almost intractable dimensions. The problem of dealing with them, in their ever increasing hosts, is one that calls urgently for legislative treatment on the lines laid down in the official recommendations of the Royal Commission, and at the earliest possible date. It is obvious that no Right-to-Work Bill is likely to find favour with these drones unless it contains some

EXTENT OF VAGRANCY 135

stringent provisions for securing unlimited Right-to-Rest also.

What effect will these reforms have on female offenders? Unfortunately the field for reformatory effort is much more limited, and less promising in the case of women than men. To begin with, their numbers are much smaller, and further, the sentences are shorter, while at the same time those of plastic age, who are susceptible specially to reformatory influences, form but an insignificant proportion of the whole number. Serious crime amongst women is in reality inconsiderable when compared with general population statistics. If we take the standing population of female convicts as a measure of the worst kind of crime, we find that the daily average population of these convicts is only 131. If we take from the local prison sentences for a complete year (amounting to over 40,000) those exceeding twelve months, we find that there were only 56 such sentences, while the sentences of twelve months

136 CRIME AND CRIMINALS

were only 98, those of nine months 79, and those of six months 444. The actual figures of crime amongst women are mainly due to offences under the heads of "simple drunkenness," and "drunkenness with aggravations," which account for 19,300 out of a total of 40,000.

In regard to age, in its bearing on the prospects of reform for these women, only 1234 were between 16 and 21, while 24,500 were between 30 and 50, and 8800 between 21 and 30.

A further indication of the unpromising character of this material is found in the percentage of previous convictions recorded against them, which is as high as 78·8, compared with 57·1 amongst men.

These figures undoubtedly confirm the general opinion held by those who work amongst female prisoners, more especially drunkards, that they are much more hopeless to deal with than men, and that it is very difficult to wean them from evil habits.

Under the new Act, however, a Borstal Institution for females has been already established at Aylesbury, and is in working order. Prisoners can be committed there direct from the Courts, or transferred there from prisons under a special section of the Act, if their sentences exceed four months. It is hoped that the Courts will now pass longer sentences of detention in Borstal Institutions for girls between 16 and 21, instead of sending them to prison for the shorter terms which have hitherto proved as ineffectual in checking drunkenness and prostitution amongst women as they have in the case of vagrancy amongst men.

Time is, of course, essential for carrying out the objects aimed at by the Borstal scheme for both sexes, if they are to be given the industrial training which, in the case of young women, is specially necessary for them when they are discharged from the Borstal Institutions, and handed over to the After-Care Associations to be provided with work,

and with the opportunities of starting new and useful lives. This industrial training is in reality one of the most important features of the scheme. Not only is it of economic value, but it is also a factor of great weight—which is apt to be overlooked—in the strengthening of character, which so many of these young offenders need, if they are to be kept out of the criminal class. I have already shown the beneficial effects of productive industry on the general conduct of prisoners, and, if we are to regard conduct in any measure as an index to, or reflex of, character, we must look for similar beneficial effects from an industrial training on the character of those who have received it at a plastic age. The acquisition of the work habit is, in fact, a powerful antidote to criminal inclinations, while the loss of it leads directly to a deterioration of character which too often ends in actual crime.

Female prisoners of the Borstal age are peculiarly susceptible to contaminat-

ing influences. Chaplains of experience are at much pains to keep young first offenders from the degrading association of some of the older hands, whom they look on as pestilent disseminators of moral contagion.

For young girls who are beginning to turn to the streets for a livelihood, but who are not yet past reclamation, this kind of companionship is a curse, and generally proves fatal to their rescue. We had at Holloway Prison exceptional facilities, of which full advantage was taken, for isolating first offenders and young prisoners in a separate wing of the building, and keeping them strictly apart from old habituals; but such facilities are not available at all prisons. Even there, however, it was found that, after all this trouble had been taken to prevent contamination, disreputable women frequently waylaid girls at the prison gates on their discharge, and dissuaded them from going to homes of rescue which they had already consented to enter. It

is a disagreeable characteristic of some of these vicious female criminals that they seem to derive a mysterious satisfaction, amounting almost to a delight, in corrupting their younger companions. The characteristic is certainly not so common with men.

The general ideas and talk of many of these young female prisoners are so inconceivably vapid and silly, as to give one the impression that their opportunities for talking with sensible people have been very limited. Tawdry finery is very generally their chief aspiration, as well as the cause of their downfall. The complete segregation of such girls from their degrading surroundings for a few years, at a time of life when they are impressionable for good as well as evil, and unrestricted intercourse with Lady Visitors, who can give them sensible ideas and straight talks, and at the same time show them sympathetic consideration, will be of much more practical value in effecting their moral improvement than

cycles of short sentences of imprisonment. The handling of many of these cases by the Lady Visitors already has been attended with most brilliant success. Failures, of course, with such a class are inevitable, but no amount of failure disheartens these earnest ladies in the good work which they have undertaken and carry out with such assiduity.

Female offenders who are of weak intellect will gain incalculable benefit from the scheme of the Royal Commission, which provides for their removal from prison altogether. This class—a very pitiable one—never has been, and never can be, rationally dealt with under a short sentence system. Their vicious habits and criminal propensities soon alienate them from relations and friends who, in despair of controlling them, abandon them to their fate—picking up a living on the streets. Petty thieving, drunkenness, and prostitution bring them back to prison time after time, their only gain from imprisonment being the pro-

tection it affords them for the time being from the perils of the streets, which, in the case of feeble-minded girls and women, are appalling. They need not only preventive, but protective detention in some kind of institution other than a prison for a much longer period than any term of penal sentence their offences would justify.

CHAPTER VII

Borstal System continued—Objects of it twofold—Range of experiment hampered—Apathy of the Courts—Deductions from experiment—Physical and mental state of material to be dealt with—Description of the machinery of the scheme—Some dangers in the use of Borstal Institutions—Preventive detention.

As the Borstal scheme, which was in the first instance merely a tentative measure, has now become the law of the land, it is somewhat interesting to note the more salient features of the experiment which were the determining factors in the legislation that followed, and further to see the details of the machinery devised by the Prison Commissioners for carrying out the intentions of the Act.

The objects aimed at by the experimental treatment were twofold—first to reform youthful offenders, and secondly to reduce the numbers of professional

criminals. The accomplishment of the latter object had already exercised the minds of many criminologists in all parts of the world, but so little had been effected that the professional criminal had almost become the despair of International Prison Congresses. The strategy of the Borstal Scheme seems fairly obvious now, but at the time the scheme was started little attention was given to incipient criminals unless they were under the age of sixteen years. Prison authorities, however, who investigated the careers of mature criminals of the professional class, soon found that the age period between sixteen and twenty-one was a critical time in which the crime habit was liable to become *fixed*, and that special efforts should be made to counteract this tendency. If they could only cut off the supply of recruits for the professional criminal class, or encourage desertion amongst those who had already gone some way in their criminal career, by special measures of reclama-

tion adapted to youths of this impressionable time of life, so as to thin the ranks of the standing army of crime, then the ordinary wastage of war waged against society by this army would have free and unrestrained play, and the twofold object of the scheme would be to some extent attained.

The success of the scheme was never in doubt from its inception. I have already shown the percentage of reforms amongst the youths themselves, and there can be no reasonable doubt that the ranks of habitual criminals suffered a corresponding depletion.

Unfortunately, however, the range of the experimental treatment was from the outset hampered and limited by the very small number of long sentences inflicted by the Courts on offenders of these ages. Thousands of prisoners between sixteen and twenty-one were sent to prison every year, but very few with sentences of twelve months, which was the shortest period in which the prisoners could be

expected to get permanent benefit from the scheme. In 1909, for example, there were 12,645 male prisoners (16-21) convicted; out of these only 263 were eligible by their sentences for a full course of Borstal treatment.

Many of the Courts seemed to be unaware of the experiment that was going on in prisons even when it had been ten years in progress; others who knew of the scheme seemed to fight shy of prison experiments, and others objected to pass long sentences on persons of immature years, even if they had previous convictions against them, unless their offences happened to be of a very serious character. As 75 per cent. of juvenile-adult prisoners are convicted for larceny, burglary, housebreaking, &c., it will be seen that this short-sentence period of Borstal experimentation has been a happy time for thieves entering on their profession which they are not likely to enjoy in future. The law is proverbially slow in its movements generally, but when

innovations in regard to penalties are introduced, and they are merely permissive in character, it is often for a considerable time stolidly indifferent to the changed position. We must not expect therefore that the merits of these new Borstal Institutions, now recognised by statute, will be assimilated with any undue haste, or that the full benefits expected of them will be reaped for a few years to come. When the whole scheme is more fully understood, and its working results become public property, the Institutions will soon acquire ample patronage and popularity.

In this connection let me add that prison governors are obliged in self-defence to learn a little of legal procedure under the dread of heavy penalties for the neglect, or illegal treatment, of prisoners entrusted to their keeping. I have often wished, when trying to grapple with the exact meaning of a sentence, as laid down in one of those doubtful and puzzling commitment war-

rants that occasionally come to every governor, that magistrates were similarly and reciprocally required to learn a little of prison treatment and procedure, not, of course, by "doing time" themselves, and perhaps learning the rules after Mr. Parnell's method by breaking them, but by familiarising themselves more in their official capacity with prison life. There are, I believe, many magistrates, who do not happen to sit on the Visiting Committees of prisons, to whom prison affairs are unstudied mysteries; and even judges have been found tripping in their statements from the Bench on this subject. I have met one magistrate who "had never been inside a prison, nor had his father before him, another magistrate." He may possibly have been romancing, as "he had known another magistrate who, desiring to impress a drunken wife-beater at Petty Sessions, sentenced him to death, utilising a black glove for the official cap on the occasion of the ceremony!"

Apart from the practical results which

I have already given of the Borstal experiment, some interesting deductions were made by the Prison Commissioners in the course of their investigations. They found that not only was time needed to effect lasting cures under the scheme, but that short sentences in the case of these juvenile-adults were worse than useless, tending, as they did, to accentuate rather than to arrest the habit of crime: that ordinary detention in a prison, even with the greatest care, and the best possible arrangements, did not allow of that specialisation and individual attention which is essential if a real impression is to be made on the younger criminals: that the corner-stone of the system must be a well-organised After-Care Association, and that costly and careful methods of treatment were quite as necessary for those at the beginning of a career of crime, as they were for criminals of mature years who were suffering long sentences of penal servitude for serious crimes.

In regard to the material they would have to deal with, that is to say, the young criminals between sixteen and twenty-one who were to be brought by law within reach of the Borstal system of treatment, the Prison Commissioners collected much valuable information which tended to throw some light on the prospects of their scheme as an engine of reformation. Evidences of physical deficiency were soon made abundantly clear amongst the whole class. In 1898 careful observation was made of all youths discharged from Pentonville Prison between sixteen and twenty years of age. As a class they were found to be no less than $2\frac{1}{2}$ inches below the average height of the general population of the same age, and they weighed approximately 14 lbs. less. Further, 26 per cent. were afflicted with some sort of disease, deformity, or disablement. It might, of course, be expected that from their environment and mode of life these London lads should be physically much below the

normal standard, but the same state of things prevails in other districts also. The Borstal Association, in their Annual Report, describe those they have had to deal with in this way:—"For the most part they enter Borstal in an unpromising condition of mind and body, lumpy, slack, sometimes defiant, generally out of condition, and, as a whole, below the average of physique and intelligence of their class. They come out healthy, well set-up, improved in manner, and, in the great majority of cases, anxious to show that they can work honestly and hard."

Besides these indications of slow growth and retarded physical development, they presented also on the mental side unmistakable evidences of corresponding deficiencies which denoted a still lower development. In educational attainments they were, of course, markedly backward, and in the ordinary mental training which makes for formation of character they were absolutely lacking. Left, for the most part, to their own

152 CRIME AND CRIMINALS

devices for making a living, they eked out their existence by thieving, and were consequently ill-nourished and underfed. No one had taken any interest in their physical or moral welfare, or attempted to gauge their capacities for learning an honest trade, or for cultivating whatever aptitudes they might possess for exercising their manual skill. Under these conditions of parental and social neglect, it is hardly surprising that they lagged far behind the classes that enjoyed better opportunities, in normal development of both mind and character, so that the age of their criminal majority, which was now fixed at twenty-one, really represented a much lower standard of social responsibility in their case than in that of a non-criminal class. If, therefore, better opportunities could be brought within their reach, the task of building up their characters, given favourable conditions, appeared to be feasible even up to a later age than that of their so-called criminal majority. People who

CRIMINAL MAJORITY AGE 153

err from "knowing no better," if their criminal habits are not already hopelessly settled by deliberate choice, are surely capable of being taught the better way. The effort of reclaiming them at all events is one that society is morally bound to make so long as there is any hope of cure, and Borstal pupils will undoubtedly repay amply all the trouble that is taken in their behalf. Young perhaps in most other respects, but old probably in criminality, there seems to have been some justification for the somewhat quaint official title of "juvenile - adults" (or "J. A." sometimes for short), which was originally given to these offenders. The title may sound inept, but the truth underlying it constitutes one of the hopeful features of the problem.

The machinery which is now being put in use for amending the habits and characters of Borstal pupils, and enticing them back to respectability, is deserving of some attention. It is practically modelled

on the lines of the experience gained by the Prison Commissioners in their systematic experiments both in convict and local prisons.

The inmates of Borstal Institutions will in the first place form an entirely separate community, kept quite apart from other criminal offenders. They will have a separate and selected staff, with their own Visiting Committee, and their own After-Care Association. The Institutions will be fed from two sources. The Courts will commit directly under a sentence of penal discipline for a term of not less than one year, and no more than three years; while the Secretary of State can transfer certain other prisoners who are likely to benefit by the treatment, if their sentences are four months and over.

The inmates will be divided into three grades:—Penal, Ordinary, and Special, with special privileges attached to the Special Grade. Each grade will have a distinctive dress. On reception all

inmates will be placed in the Ordinary Grade, or, in other words, half way up the ladder, so that they may have, as it were, the dread of falling, and the delight of rising, present to their minds. Promotion from the Ordinary to the Special Grade is to be gained by industry and good conduct, but it may be postponed by idleness or misconduct, or inmates may be reduced to the Penal Grade, or may forfeit any of the privileges of the Ordinary Grade.

Promotion to the Special Grade will be earned by marks for good conduct, industry, and general attention to instructions. The award of marks will be based on each officer's personal observation of the inmates, their general behaviour, amenability to discipline, and attention to instruction, both literary and industrial.

Inmates may be placed temporarily in the Penal Grade if they are believed by the Governor to be exercising a bad influence; while in this grade they will

be employed *in separation* at work of a hard or laborious nature, and receive no gratuity.

Promotion to the Special Grade will be decided in each case by the "Institution Board," composed of the Governor, Deputy - governor, Chaplain, Medical Officer and Chief Warder, who will sit regularly once a month and investigate every case. The Board may award "merit marks" when, from their *personal knowledge and observation* of each inmate they are of opinion that *he has an evident desire to respond to reformatory treatment.*

Inmates reach the Special Grade when they have earned marks representing not less than five months detention. The Special Grade carries with it the privileges of certain comforts in cell furniture, the use of pictures or photographs in cell, and association with other inmates under supervision, and after labour ceases, for purposes of recreation. A good conduct badge is worn for every three months

MACHINERY OF SCHEME 157

passed in this grade, and it carries a small money payment with which extra articles of food may be bought. Those in this grade may also work in places of trust and on parole under very modified supervision.

Inmates shall, in addition to the necessary service of the Institution (which is to be carried out by each in rotation so as not to interfere with their technical training), be employed *in association* in workshops, or in outdoor work, such as building, farming, &c., and they shall be instructed, as far as possible, in useful industries which may help them to earn their livelihood on release.

They get further a liberal diet, daily drill if medically fit, and are taught daily till they pass Standard IV., when they become eligible to attend evening classes for technical training; they get a free supply of library books, and hear lectures and addresses. Those in the Penal Grade receive no letters or visits, but those in the Ordinary and Special Grades get letters

and visits after six weeks and one month respectively; they can earn by marks gratuities up to £5, and for each first badge two shillings, and for subsequent badges three shillings each.

Those who show satisfactory signs of reclamation, and for whom work can be found, may be discharged on licence after they have completed six months at least of their sentences. Special provision will be made for the discharge on licence of each inmate by arrangement with benevolent societies or persons who may be willing to assist the case.

Some modification of these arrangements is made to meet the case of female inmates.

This epitome of the regulations which have been laid down for the guidance of the managers of Borstal Institutions gives a fairly adequate idea of the scope and framework of the Borstal Scheme. They seem admirably designed to carry out their object by a judicious adjustment of

the rewards and penalties that are likely to appeal to youths with any spirit of emulation. The arrangements for providing individual attention for every inmate from the superior, as well as the subordinate, officers of the Institution ought to be highly beneficial to youths who have not been accustomed to a helping hand; while for those who behave well and keep out of the Penal Stage, to which idleness or misconduct only can bring them, the whole atmosphere of the Institution should prove to be that of a training school rather than a prison.

One danger that should not be overlooked in connection with the use of the Institutions is that some Courts will persist in sending to them unsuitable cases in opposition to expert opinion. I have already seen one such case recorded. It should be borne in mind that a thoroughly vicious and depraved youth, who has already been passed through the mill without any other effect than that of

impressing the authorities with his rooted aversion to amendment, can disseminate a lot of moral poison in a community that is struggling to emerge from crime. An inmate of such a character aspires to be a hero with followers, and has too often a magnetic influence on lads who may be at the parting of the ways. If such cases are remitted to the Institutions despite the evidence of persons who know their real character, much more harm than good is likely to follow. Those who read the above regulations, which judges probably have no time to study, will see that undesirable inmates who are exercising a bad influence on their companions, are very likely to spend most of their time in the Penal Grade working in *separation*. They would be far better off in an ordinary prison, where, too their capacity for mischief would be comparatively insignificant.

On the other hand, some Courts will probably not send cases that are really suitable. If we can judge by the work-

ing of the Inebriates Act, there seems to be a marked prejudice against committing persons, even for cure, for long periods, if their offences are apparently slight. Many Courts, and many very worthy persons, seem to think much more of the nature of the offence, or of the value of the article stolen, than of the actual *criminal habit*, which is of infinitely greater importance. They adopt the view, in fact, that is commonly held by prisoners themselves. At one prison with which I was connected during my service, a warder overheard the following illustrative conversation between two prisoners in adjoining cells:—

A. What are you in for?

B. Forty thousand pounds! What are *you* in for?

A. Six b—— heggs! Seven days hard—more than a day a hegg.

But *A* was a person who *lived* by thieving, and, on his record, a month per egg might easily have been his lot

before a more discriminating tribunal. It is obvious that if this method of appraising the delinquencies of Borstal candidates, 75 per cent. of whom are thieves, is generally adopted in practice, many eligible persons will miss the benefits of the Borstal Institutions. Philanthropic *intentions* in dealing with people of criminal habit and tendency may wreck the best devised schemes of reclamation. Philanthropy, indeed, is a form of love which is often quite as blind as the ordinary variety of the disorder we see in spring epidemics.

Grouped with these provisions for the reformation of young offenders in the same Act of Parliament—the Prevention of Crime Act—are found other provisions dealing with the Detention of Habitual Criminals. The subjects are, as I have shown, very closely allied. Both strike at the crime habit, one at its inception by attempting to arrest the tendency to criminality, the other at its maturity by resorting to the in-

hibitory expedient of a much longer period of seclusion for habitual criminals than that now in force. The first part of the sentence will be penal in character and under the ordinary conditions of penal servitude, but the latter, or preventive detention period, not less than five or more than ten years, will be reformatory in aim, with a view to inculcate habits of industry and honesty, so as to fit the offenders for a return to freedom without risk to the community. A special place of detention will be provided for those undergoing the reformatory portion of the sentence. "It will have all the force and security which strict discipline and safe custody demand, while, at the same time, it will admit of certain indulgences and privileges, earned by industry and good conduct, which will render the conditions of detention less onerous in some respects than those of ordinary penal servitude." It will be some time before "preventive detention" comes into actual operation,

as three years' penal servitude is a necessary antecedent of the system.

Rules and regulations will be drawn up for the detention establishment, as in the case of the Borstal Institutions, and strenuous efforts will be made to effect the reclamation of this class. The material to be dealt with is by no means so promising, but, as the time at disposal will be considerable, it is probable that all who are really reclaimable will forsake their criminal careers and become law-abiding citizens.

This double-edged Act for the Prevention of Crime is, I believe, destined to effect in course of time very marked changes in our criminal records. Its origin dates back to 1894, when the Gladstone Committee reported the necessity for special legislation on the subject, and it must have been some satisfaction to Lord Gladstone before he left the Home Office to know that the recommendations of his Committee had, after an interval of fourteen years, at last

become law. The passing of this Act and of the Children's Act during his administration has effected very beneficent mitigations in the criminal law with which his name will always be associated.

CHAPTER VIII

Evolution of the prison system—Prisons in the time of John Howard—Gaol fever—Legislation on prisons—Building of Pentonville in 1840—Act of 1865—Separate system—Hard labour—Progress in Reform after 1865—Act of 1877—Public begin to take an interest in prisons—Departmental Committee appointed in 1894 to inquire into the whole subject.

OUR English prison system has been for the most part very slowly and gradually evolved from our own experience in prison administration. It cannot be said that other countries, except perhaps America, have contributed any material features to the system as it exists to-day. International congresses on prison affairs meet periodically, and the representatives of different countries interchange views from time to time, but each country appears to adopt only those reforms which can be fitted into its own national system, or are suited to its own national char-

acter. Looking back on the progress of events, we must admit that in our own case the process of evolution has been so slow as to be a disgrace to our civilisation. In the latter half of the eighteenth century John Howard had already pointed out the deplorable state of our prisons, and denounced the moral and sanitary conditions under which our prisoners lived. He spent his life, and eventually lost it, in investigating these evils, and yet it was not till fifty years after his death that the first real step was taken to end the horrors, of which he had preached for many years, by the building of Pentonville model prison in 1840. In Howard's time it was difficult to arouse any public feeling on behalf of the inmates of gaols. Any treatment was supposed to be good enough for them. The public seemed to have neither interest nor sympathy to spare for such a class, nor did the authorities apparently know how to begin to stem the torrent of misery which they had allowed to swell

to such proportions. The course of events, however, forced their hands, and the interests of the community, rather than those of the suffering prisoners, eventually compelled them to adopt sweeping reforms. The state of the prisons in Howard's time was almost beyond belief. We read that prisoners were packed and huddled together in noisome dungeons, into which very little air, and still less light, was allowed to enter. Their food was of the coarsest description and scanty in amount, and their supply of water most inadequate. He tells of one prison where the daily supply for all purposes was only three pints per head, and even this was doled out at the caprice of the keeper. In respect of food, debtors especially fared very badly. For ordinary convicted criminals a grant in money or kind was given—a pennyworth of bread a day, or a shillingsworth a week, but debtors had to subsist mainly on charity, and so were well-nigh starved to death.

Deprived of the very essentials of life—air, water, and food—the physical condition of prisoners was wretched in the extreme. But the moral atmosphere in which they lived was still worse. No attempt was made to classify or separate them. Untried prisoners and debtors, who formed the bulk of the permanent prison population, were herded with thieves, highwaymen, and murderers, and all alike lived in enforced idleness, which was a leading feature of the prison administration. In the day rooms men and women, sick and healthy, sane and insane, veterans in crime, and youthful offenders gambled, drank, swore, concocted burglaries, and even manufactured counterfeit coin.

By night the air space in the sleeping chambers was often less than 150 cubic feet for each prisoner, and this air was never changed. The main cause of all this overcrowding was the infrequency of gaol deliveries. We read of one instance at Hull where there had been

no gaol delivery for seven years. Other causes were found in defective plannings of buildings and parsimony of prison authorities, who thought anything good enough for the inmates. Innocent and guilty suffered alike. Large numbers of accused persons pined away in prison for months and years, exposed to all the risks of disease before they were ever brought up for trial.

Gaols were built like fortresses with enormously thick walls, so as to ensure safe custody, and no attention was given to the question of supervision, which secures the same object so much more effectually in modern prisons.

It is not surprising that under these conditions the germs of disease were constantly present in the gaols throughout the country, and that they should have become extensive laboratories for the cultivation and dissemination of fever. This actually occurred, and that particular fever which originates in overcrowding, filth, and poverty, was so constantly break-

ing out, that it came to be called "gaol fever." It was endemic in many prisons.

The ravages of the disease, however, were far greater outside than inside. The clothing and bodies of prisoners seemed to be saturated with the poison. They carried it with them into Court, into their homes, into towns and villages, and even into our fleets, spreading infection everywhere. Whole regiments were infected by soldiers who brought the disease with them from gaol, and the first English fleet sent to America lost by it over two thousand men.

At the May Sessions of the Old Bailey in 1750 there was a very heavy calendar, and the Court, which was small, was excessively crowded. As it was in direct communication with the prison, infection was carried to the Bench. Four judges and one alderman were seized with the distemper and died. Forty others in Court also succumbed, including Under-Sheriffs and members of the Bar and Jury.

172 CRIME AND CRIMINALS

Newgate, the chief prison of the kingdom, was the most insanitary of all the others. It held this pernicious lead long afterwards, although an era of somewhat more enlightened management had set in at several country gaols early in the nineteenth century. Even after Newgate had been burned and gutted by the Gordon rioters, and partially rebuilt, gaol fever was again very prevalent. In 1793 Lord George Gordon himself died of the disease in Newgate.

A Committee was appointed by the Corporation of London to inquire into the cause of the disease, and to suggest means for its prevention. Dr. Pringle traced the disease to overcrowding, and suggested that a windmill structure should be added to the roof of the prison to extract foul air. Several workmen lost their lives in fixing this idiotic contrivance, which was a truly significant monument of the hygiene of the period.

DEMOLITION OF NEWGATE 173

It is a source of special satisfaction to me personally that during my recent term of office as Governor of Holloway Prison, which carried with it also the Governorship of Newgate, this latter prison, which had been for so many years the hotbed of so much pestilence and preventible disease, was finally closed and demolished to make way for the handsome Central Criminal Court which has now been erected on its historic site.

Up till the beginning of the reign of Queen Victoria, very little was done in the way of legislation to alleviate the wrongs of prisoners, or rectify abuses of administration. Various attempts had been made at separation and classification, but the laws then in force were either wholly or partially ignored—the prison authorities in most places being unable to carry them out in the cumbersome and ill-constructed buildings that were in existence.

The building of a model prison at

Pentonville for convicts was at last undertaken by Government in 1840, and Sir Joshua Jebb spared no pains to make it as perfect as possible, and up to the highest standards of hygiene. The great principles he aimed at were separate cells for each prisoner, to be well warmed and ventilated, proper hospital accommodation for the isolation and treatment of the sick, and ample space within the walls for exercise grounds, workshops, and offices. Massive walls and dungeons were ruled out, and the building was designed with a special view to facility of supervision. The model prison was opened in 1842, and was at once found to be a great architectural and sanitary success, and it continues to be a healthy and useful prison up to the present day. Several other prisons on the same lines were built throughout the country in quick succession, so that prison authorities were soon in a better position for carrying out the laws.

The building of Pentonville was the death-blow of gaol fever, for since then typhus has rarely originated in any gaols except very old ones, and a case arising in a modern prison would be looked upon as a phenomenal occurrence. I have myself seen, as late as 1882 and 1883, several cases of typhus, or the old gaol fever, *introduced* into prisons from the overcrowded slums of Manchester and Liverpool, but under the conditions of modern sanitation they were soon stamped out.

From the short sketch I have given of the state of affairs during the time of Howard's activity and down to 1840, as bearing on the development of our prison system, it will be gathered that the evolutionary process worked very slowly, despite the terrible havoc disease was causing inside and outside prisons. The disastrous epidemic at the Old Bailey Sessions occurred in 1750, and the model prison was not begun till 1840. Meantime the apathy of the

public and of the authorities was incredible. Nothing seemed to rouse them to a sense of danger. The fate of prisoners and the safety of the public were ignored, and a kind of Oriental fatalism appears to have settled on the authorities. Gaol fever was the most deadly indication of the insanitary state of the prisons, but smallpox, typhoid, erysipelas, and scarlet fever also claimed many victims, so that the mortality was considerably in excess of that of the outside population. Suicides also were of constant occurrence—convicted and unconvicted alike preferring to die by their own hands rather than to be exposed to the risks of gaol fever. Sanitary science was, of course, still in its infancy, if indeed it were yet born, but the necessities of life—light, air, water, food—were quite well understood at this period. Further, it was well known to the authorities that overcrowding, filth, and starvation were the causes of gaol fever, and yet no rational steps

IMPROVING SANITATION 177

were taken for relieving the frightful congestion that prevailed in the prisons till 1840.

The real basis, then, of all progress that has since been made in prison administration and treatment is to be found in the improved sanitation then started. Whatever mitigation of his lot, or whatever privilege the prisoner may have obtained then or afterwards, it is certain that nothing can be compared to the benefit he derives from the improved sanitary conditions under which he now lives, and which were inaugurated at the time when Pentonville was built. Experience of the model prison soon proved that a properly constructed building was the first essential for a humane system of treatment, as well as for a proper classification of the inmates, and for the maintenance of their health. The stern lessons of former epidemics spreading from neglected unwholesome gaols at length began to impress the minds of the public. Many of the local

authorities accordingly set to work to provide themselves with improved Pentonvilles, so that some of the best prisons in the country were constructed at this period. New construction and improved sanitation advanced hand in hand. The moral and physical condition of prisoners began to claim that attention for which Howard had so long pleaded, and at last the bitter teachings of experience, which had taken such an unconscionable time to sink in, were embodied in an Act of Parliament in 1865.

This Act, which is a monument of Parliamentary industry if judged by present-day standards, dealt in a most comprehensive manner with the existing defects of the entire system. The Act contains eighty-two clauses, and one hundred and four regulations for the government of prisons. By it ten previous Acts were wholly, and eight partially, repealed, while fourteen defective prisons were at once discontinued. In every prison separate cells were

ordered to be provided for the average of the greatest number who had been confined in such prison at any time during each of the preceding five years. These cells were to be duly certified before occupation by one of H.M. Inspectors to be of such a size, and to be lighted, warmed, ventilated, and fitted up in such a manner as may be requisite for health, and furnished with the means of enabling the prisoner to communicate at any time with an officer of the prison. Criminal prisoners were to be prevented from holding communication with each other by being kept in separate cells day and night, except when they went to chapel or exercise, or by being superintended during the day, if not working in their cells, so as to prevent their holding such communication. Debtors were to be kept entirely separate from criminal prisoners. Cells for punishment were to be provided of such a kind as not to be detrimental to health, and the inspector's certificate was to state how

long such a cell could be used. Work was to be provided for all criminal prisoners, and a proper supply of plain wholesome food. Extensive powers were given to prison authorities to alter, enlarge, rebuild, or build prisons under conditions to be approved by a Secretary of State. Penalties were imposed on local authorities for inadequate prisons if they did not comply with the requirements of the Act in respect of separation, or of the enforcement of hard labour, or of providing a chapel for worship, and power was also given to close inadequate prisons if they persisted in not complying with the Act. The Secretary of State was empowered to appoint a Surveyor-General of Prisons for the purpose of advising prison authorities on the construction of prisons, and reporting to the Secretary of State on the plans sent to him for approval. Prisoners became removable from one prison to another in case of a contagious or infectious disease breaking

out in any prison. Lastly, prisoners convicted of misdemeanour were divided into two classes.

Under the general regulations many sanitary precautions were laid down, and an infirmary for the sick had to be provided in every prison. These general regulations cover nearly the whole field of the internal administration, and they are the basis on which the existing Local Prison Rules are founded.

The first and most important principle laid down in the Act was the strict separation of all criminal prisoners—the direct object of this provision being, according to the terms of the Act, “to prevent such prisoners from communicating with each other.” Contamination both in a physical and in a moral sense was to be extirpated by the adoption of the Separate System. Prisoners were to be protected from all the evils of indiscriminate association, and housed under conditions calculated to lead to their moral and physical well-being.

All these good results followed in due course, and for many years the Separate System was held in high repute, but of late it has been modified to some extent, and prisoners have been allowed to work in company under strict superintendence, so as to give them better opportunities for learning skilled trades and handicrafts under their instructing officers.

Critics have from time to time found fault with the system, and imported some prejudice into the consideration of the subject by calling it "Solitary Confinement," and stating that it leads to morbid introspection, and to all kinds of mental and moral ills, but there is no reason to think that separation, as carried out under the prison rules, or that the loss of a companionship, which was evil at the best of times, has had any such pernicious effects. "Separate Confinement" is by no means tantamount to "Solitary Confinement," nor did prisoners themselves think so. In my recollection many, if not most, convicts who had to pass full

THE SEPARATE SYSTEM 183

nine months separate confinement in Millbank or Pentonville prison, before going to outdoor associated labour at the public works prisons, used to prefer the time spent in the close prisons. Whether this may have been partly due to their dislike of the hard outdoor work is uncertain, but at all events they liked doing what they called their "Separates"—a process they would certainly have detested if it had been solitary confinement.

The type of criminal has, however, changed considerably since those days. He is much less stolid, and at the same time more civilised and (if I may say so), more neurotic, and probably therefore more susceptible to the mental and moral effects of any prolonged period of seclusion. For these reasons the term of separate confinement has been reduced for convicts, and the same ideas have helped to modify the separate system for local prisoners.

The Act of 1865, then, has safeguarded

the health and morals of prisoners; it has provided them with employment and elementary instruction, but it has nevertheless firmly adhered to the principle that punishment is the primary object of a sentence of imprisonment. Those who were sentenced to hard labour had to pass at least the first three months of their time at laborious, and, for the most part, useless work, which was supposed to be of a penal and disagreeable character; and further they were liable to pass their whole sentence at the same kind of work unless the Visiting Justices found them eligible for industrial employment. These were assuredly penalties with a vengeance. The Act of 1877 subsequently toned them down considerably by reducing the period to be spent on this drastic programme of work from three months to one, and later still, under the auspices of the Prison Commissioners, a beneficent change in the quality of the work was brought about by the abolition of

cranks and tread - wheels. Since the adoption of government control of the prisons in 1877 there has been a general tendency to make the work portion of a prisoner's sentence much less penal and vindictive in character, so that the tasks exacted at the present time are well within the powers of an able-bodied man or woman, and are indeed of so reasonable a kind that they could hardly be taken exception to by even a committee of tramps. Confirmation of this statement is found in the fact, to which allusion has been already made, that these capable experts prefer the prison to the casual ward, and that they patronise the former institutions in such embarrassing numbers at the present time. Industry, and the cultivation of the work habit, are now aimed at by the prison authorities as higher ideals than the infliction of penalties.

Progress in the reform of the Prison System can hardly be said to have begun till 1865. If we take the three stages—

marked respectively by "Indiscriminate Association," "Separation," and "Modified Separation"—we see that the progress from the first stage to the second was, in practice, so leisurely as to occupy over a century in its accomplishment, while more has been achieved in the last forty years than in the two hundred which preceded them. So long as the prison authorities were still separate bodies, with widely divergent views as to their responsibilities and methods of administration, external influences, mainly in the form of legislation, were relied on to bring about any necessary changes in the amelioration of the treatment of prisoners. The community in general were, as we have seen, blindly indifferent even when gaol fever was decimating their own ranks. Where Howard failed, even Dickens, the popular idol, met with scanty success at a later period. When, however, the control of the prisons passed from the local authorities in Quarter Sessions assembled, and became vested

in a Secretary of State—a possible tyrant—the public, with their instinctive interest in the rights and liberties of the subject (even though a captive) newly awakened, became at once jealous guardians of the rights of prisoners, and vigilant critics of the new administration. All this tended to hasten reform. Meantime the experience gained by the Prison Commissioners in dealing with prisons and prisoners on a large scale enabled them to suggest many reforms from within. At once they took steps to abolish all the demoralising or brutalising features which were said to characterise the system of management. Excessive bread and water punishments were stopped, and a diet for idle and ill-conducted prisoners was devised that was less likely to cause physical injury. Bullying and irritating tactics on the part of officers were sternly forbidden under the threat of heavy penalties. The practice of assembling the general body of prisoners to witness corporal punishment, which

had been prevalent in many prisons, was abolished. Suggestions for administrative improvements received careful investigation, and doubtful points of new policy were referred to expert committees to determine, and submit to the Secretary of State.

One manifestation of the popular interest which was taken in prison affairs after the transfer, and which was commonly seen at the inquests held in accordance with law on the death of every prisoner, was frequently embarrassing, if not annoying, to the prison witnesses, especially medical officers. A fixed idea seemed to possess the minds of jurymen that prisoners were either starved, or done to death under the new management. The examination of witnesses often assumed an aggressive or offensive tone on matters relating to hospital and general treatment, the sufficiency of diets, the use of stimulants, and so on—questions which had not aroused any similar attention when prisons were

being maintained out of the rates. As a matter of fact the medical arrangements at the time were on far less parsimonious, and far stricter, lines than they had ever been before. The staff had been liberally increased; stringent regulations had been made for the medical examination and treatment of all prisoners; moreover the death-rate was falling rapidly, the general health of the prisoners was good, and the sanitary state of the prisons was constantly improving. Nevertheless popular distrust of the system, judging from press comments, the attitude of jurors and other sources of information, seemed to exist in no uncertain degree. So captious and unreasonable were some juries that an intelligent onlooker remarked that "medical officers were practically tried for manslaughter at every prison inquest."

On one occasion I gave evidence as to the death of a prisoner who had been well cared for in hospital for several weeks, and had died from purely natural causes. A juror, after viewing the body,

took me in hand, and questioned me closely on the treatment, diet, &c. He then asked me what was the meaning of a large "cut" he noticed on the face of the deceased—suggesting apparently foul play. I said I was not aware of any such injury, nor did I know of the prisoner having been injured, but I asked the coroner to let me go and examine. On my return I informed the coroner that there was no "cut," but there was a "scar" that was probably some years old. A discussion then took place as to whether or not a "scar" was a "cut." Several jurors joined in, and the coroner, who was a very peppery old gentleman, took the side of the original juror and decided in the affirmative. On my trying to convince him to the contrary, he implied that I was trifling with the Court, and that he would commit me for contempt. I waived the point, and avoided the catastrophe.

In 1894, after sixteen years experience of centralisation, the whole prison

system, and the administrative machinery for carrying it out were subjected to a very strict investigation and overhaul. For some time previously criticism had been free and constant in magazines and newspapers. The *Daily Chronicle*, which appeared to have taken prisons under its special protection and scrutiny, brought a sweeping indictment, not only against the system itself, but also against the administration. Some of the criticism was forcible enough, with a view to bring about salutary reforms, but for the most part it was marked by asperity, and many of the defects indicated were unduly magnified, so as to give an impression to an ordinary reader that centralisation had not met with the success that was claimed for it. The result of these articles, and of the correspondence to which they gave rise in the Press, was that Mr. Asquith, who was then Home Secretary, appointed a Departmental Committee, with Mr. Herbert—now Lord—Gladstone as chairman, to

inquire into the subject. The terms of the reference were so wide as to embrace an examination of the entire system and its working, or the general "conditions under which prisoners are confined."

The Press indictment, so far as it concerned the administration, could not be sustained. The Committee found that the Prison Commissioners had loyally and efficiently carried out the principles laid down in the Acts of Parliament, and in the recommendations of various Committees and Commissions, and that they had achieved in organisation, discipline, order, and economy, a striking administrative success. But several defects and shortcomings in the system itself were at the same time noted, and recommendations were made in regard to them, some of which were carried out administratively, and others were subsequently embodied in Acts of Parliament.

The chief recommendations of the Committee were:—Abolition of unproductive labour, extension of associated

labour, improved classification, penal reformatories for young prisoners, special sentences for habitual criminals, training prisons for officers, amalgamation of convict and local prisons, and that an additional member of the Prisons Board should be appointed, who should be a medical man.

The Committee were of opinion that the "system should be made more elastic, more capable of being adapted to the special cases of individual prisoners." Rules and regulations are of course specially necessary in a penal establishment if those in authority are to have any compass to steer by, and many of the governors thought at the time that "elasticity" might lead to slackness. It seems to have been the irony of fate which subsequently gave the chairman of the Committee, in his capacity as Secretary of State, an object-lesson in the working of the system on elastic lines. I am not disclosing any prison secrets in stating that the Suffragettes

were not dealt with according to the rules at all, that they were shifted in whole batches from the divisions in which they had been placed by magistrates, and that they had, in whatever division they found themselves, privileges and indulgences to which they had no title. Rules were consequently ignored, dissatisfaction prevailed amongst the ordinary prisoners, and the only guiding principle left for the governor and staff seemed to be that "it was a poor rule that would not work both ways."

It is needless to point out that laxity of this sort tended to make martyrs very cheap, to stimulate the militant tactics of the Suffragist societies, and to furnish them with valuable advertising statistics for their publications as to the numbers of the victims sent to prison, and the total years of imprisonment they suffered for the cause. At a later period they were able to supplement these figures with the statistics of hunger strikes and forcible feeding, so as to demonstrate the

EFFECTS OF THEIR WORK 195

helplessness of the authorities in trying to cope with their methods.

The work of the Committee, however, was of immense value. Their recommendations embraced nearly every reform that has since been carried into effect. The asperities of the system were considerably softened, and reformatory features were developed which have tended to humanise the general working of the whole scheme, and to add enormously to its efficiency. Whatever may be the merits or defects of our penal system as it exists to-day, or whatever influence prison treatment may have had in the regulation of crime, it is at all events certain that life and property are as safe in England as in any country in the world.

CHAPTER IX

Penalties not severe under present system—Administration of English and American law—Prisoners under sentence of death—General conditions of life in prison—Penal system is a compromise—Industry and good conduct expected of prisoners—Reformatory treatment impracticable for minor offenders—Machinery for investigating grievances—Writings of ex-prisoners—Deterrent and reformatory effects—Success of system depends on reduction of criminals—Press comments—American prisons.

FROM the general survey I have given of the development of our penal system, it will be inferred that society does not exact very heavy toll of those who offend against its laws, either in respect of length of sentence or severity of treatment. A spirit of revenge, indeed, has little, if any, place in our penal code, and loss of liberty now constitutes the most effective deterrent feature in a sentence of imprisonment for at least nine-tenths of those who have to undergo it. At the

same time the administration of our criminal law is by no means slack or uncertain in its results. Thirty years ago sentences of penal servitude were dealt out so freely for comparatively trivial offences that they had the appearance of vindictiveness, if not injustice, and we had, in consequence, a standing population of 10,000 convicts as compared with 3000 in the present day; but, after the passing of the Summary Jurisdiction Act in 1879, the Courts confidently relied more and more on the efficacy of moderate sentences, and on the certainty, rather than the severity, of penalties, for keeping crime in check. The recent establishment of a Court of Criminal Appeal has further tended to prevent miscarriages of justice, and to render sentences more uniform than they have hitherto been under the discretion of individual judges. Experience has amply justified these beneficent changes in English law.

If we compare our system with that of the United States, we find the results

198 CRIME AND CRIMINALS

are totally different. There the laws are strict enough, but the methods of legal procedure adopted in dealing with criminals seem to be vitiated by a too chivalrous veneration for the liberty of the individual, so that the law is not resolutely administered. Penalties are, consequently, not only lenient, but uncertain in their incidence, the course of justice is slow, and the administration of the criminal law, especially in regard to murder, is falling into considerable disrepute with Americans themselves. Mr. Andrew D. White, First President of Cornell University, and subsequently Minister at St. Petersburg, and Ambassador at Berlin, has recently conducted an inquiry into this subject. "The results have been to convince him that at the present day it is safer to kill a man in the United States than to kill a deer. In the course of a year he predicts 5000 men and women will have been murdered. Twenty years ago there were about 1500 murders in the United States annually.

There are now 8000. The percentage of murders in the United States to population is forty-three times greater than in Canada, and eight times greater than in Belgium, which has the worst record in Europe. An especially disquieting symptom is the sympathy bestowed on criminals, which tempts Mr. White to make the ironical statement that the State should purchase the Waldorf Astoria Hotel, confine all murderers in it, and dine them and wine them until they die of gout."

If Mr. White's conclusions are correct, the administration of the law would appear to be urgently in need of some reform.

Another anomaly, or what seems so to us, in American judicial procedure, is the long delay that intervenes between sentence and execution in those cases in which a conviction for murder has been already secured. In England, of course, murders are not committed on so magnificent a scale, but when a conviction is

once obtained, the sentence is either carried out within a month, or commuted to penal servitude. In 1909 death sentences were passed on twenty men and three women. Sixteen of the men were executed. Commutation of sentence to penal servitude was ordered in the cases of four men and three women—the latter having been guilty of infanticide. Prisoners with life sentences tend to accumulate in convict prisons, but the total number of these at the end of the year was only 136.

Prisoners under sentence of death, who form a class quite apart, are dealt with in the local prisons unless their sentences are commuted. They do not, as a rule, belong to the habitual or the professional criminal class. They are generally stolid in demeanour, and apparently callous in temperament, eating and sleeping in what seems to an onlooker indifference and unconcern during the short period they have to live. Some go to the gallows, in my experience of them, in a dazed

condition. I have only once witnessed abject terror, the greater number meeting their end with a kind of stolid fortitude. I saw one man of the latter class, who had admitted the justice of his sentence, and who, on his way to the scaffold, quietly asked the executioner, who had just pinioned him, to "give him a good long drop." He had but a few paces further to go, which he accomplished with a firm step, and within a minute he was dead.

In contrasting American with English procedure in murder cases I do not wish to set up the latter as an universal model, or to imply that what suits one country must of necessity suit all. There is no reason to think that the judicial system of a country, any more than its form of government, however satisfactory these may be at home, will find equal favour or success abroad. Transplant the Russian system to America, or the American to Russia, and the results would probably be anarchy and civil war. Judicial systems must be in accordance with the

national sentiment of the people who live under them. Miscarriages of justice will occur, and scandals will arise from time to time under all systems. If the French people have their Dreyfus case, and the Americans their Thaw trial, to emphasise the fallibility of their respective systems, we too have our Beck case to remind us of the fallibility of our own.

The general conditions under which prisoners live in England do not press at all heavily on the class from which prisoners are mainly drawn, nor can they be considered harsh or severe even for those who have been accustomed to more comfortable or luxurious homes. The standard of hygiene and cleanliness is very high, penal tasks are reduced to a minimum, cellular confinement is on a very moderate scale, books are provided liberally, power to shorten their sentences is extended to the well conducted, and lastly the dietary scale, which is graduated according to length of sentence, contains a regular supply of plain wholesome food

which meets the physical requirements of all prisoners—maintaining a high standard of general health and a very low rate of mortality. Those who yearn for a “simple life” could hardly find a better scheme of existence for their imitation. Absolute luxury is, of course, inconsistent with a state of imprisonment, but the relative luxury of prison fare and treatment has considerable attractions for large numbers of persons who earn a precarious living outside. The restfulness of it, and the monotony of the dinner bell appeal strongly to thousands of the vagrant class, as I have already shown, and many people think prisons are made too comfortable. On the other hand there are easy-going sentimentalists who consider that a moral lecture is the most appropriate treatment for most offences, and who denounce the whole penal system, root and branch. The system in reality may be said to represent a compromise between the respective tenets of these jarring factions, and most people

seem to be agreed that it tempers justice with mercy.

In return for the benefits he receives the prisoner is expected to show industry and good conduct if he is to enjoy the further advantages of industrial training, with gratuity for his work, which are designed for his reformation. The essence of the Progressive Stage System is the encouragement of self-help and self-reliance. Not the least of his privileges, in these days of unemployment, is the help he gets to find work on discharge. No prisoner who evinces a genuine desire to retrieve his character, and work honestly is refused help. The Discharged Prisoners Aid Societies assist, by maintenance and by procuring work, thousands of prisoners every year. We read now and then in the papers of ex-prisoners complaining that the police hunt them from one job to another, but this practice is officially discountenanced, and the cases generally do not bear investigation. Nothing is heard of those who set to work quietly

and in obscurity to benefit by the lessons they have had in prison and the timely aid they received on discharge.

One unavoidable defect in the scheme is its very limited applicability to the cases of those hosts of minor offenders who come to prison for short periods under a month, and who are dependent chiefly, for reformatory encouragement, on the lessons of their experience reinforced by the admonitions of the chaplain on reception and discharge. The remedy for this defect lies in the direction of the segregation of the majority of them under the schemes proposed for dealing with mendicants and inebriates.

It may be thought that under the system I have attempted to describe there is not much scope for legitimate complaints or grievances on the part of prisoners, but prisoners are very ingenious folk at finding out weak spots in any system. Genuine grievances are exceptional so far as the system is concerned, but frivolous complaints are constantly

being made, especially by men. A prison, unfortunately, is not a palace of truth. Fraud, false pretences, and deception of all kinds are very much in the air, so that officials who live in the midst of it have to accept statements with a good deal of scepticism. Fraudulent people seem to take pleasure in misleading officials, and thieves will deceive, and steal, even in prison, when they get a chance. I have known a female thief, for instance, try to keep her hand in by stealing her own property! When an officer was giving out her belongings on discharge, the prisoner stole her own ring off the table, concealed it, and claimed compensation. The matron was sent for, and, knowing her prisoner, promptly had her searched, with the result that the ring was found concealed on her person.

Tasks of unproductive labour used to cause much grumbling and dissatisfaction, and many grievances are alleged as to the length and the injustice of sentences; but complaints are always frequent in regard

to food — that it is insufficient, badly cooked, of inferior quality, short of weight, and so on. Prisoners have various expedients of their own for helping out their complaints by tampering with the diets after issue, and in other ways. One man, for example, attained his object by a double fraud. He complained that his cocoa was bad, so I sent for a sample from the general issue to compare with it, and found the prisoner's cocoa had been diluted. The two specimens were on the office table, and when the prisoner was going he managed to ring the changes on them and carry off the fresh sample.

There are many prisoners who think much more of the diet than of any of the other disadvantages in connection with their sentences. It always appears to be uppermost in their minds. A colleague of mine once asked an old hand, whose intervals of freedom were generally very brief, where he had been for the past year. The prisoner said that he and a pal (both pickpockets), wanting to change

their pitch, had gone over "on business" to a French race meeting, that they had been run in, and done time in a French prison. In reply to an inquiry as to how he liked it, the prisoner, with food prominently in mind, said: "Oh! the bullyawng dunnion was not bad" (*bouillon d'oignon*).

A spell in hospital, where perhaps he may be favoured with an opportunity, denied him elsewhere, to beg, borrow, or steal, a part of some one else's diet to supplement his own, is such a congenial change for a prisoner of this sort, that he is generally a regular attendant at the daily levee of the doctor. Actual invalid regimen is not at all to his fancy, so that however severe his symptoms may have appeared before admission to hospital, he recovers his appetite in very quick time.

The conditions of prison life, with the necessity it entails of issuing carefully-measured diets to men in separate cells, tend to bring out prominently the marked differences of appetite in men of apparently similar physique, and to lend pro-

bability to the doctrine that appetite is to a great extent a matter of training and habit. No dietary scale that would not be in practice extremely wasteful could possibly meet all these variations, so that medical officers are fully empowered to grant extra food to meet the exceptional requirements of individual cases, and they use these powers freely.

Apropos food complaints, a patient in hospital one morning told me his egg was bad. His complaint seemed to me genuine, as the egg was past the crisis, so I ordered him another. The prisoner orderly, however, who was standing beside me, thinking I was too fastidious about it, and the patient also, said it was "a very good egg, but it was a last year's egg!" He added that "he had been in the trade, and could fake 'em up for the market," and that an egg in the stage of this one was always "good for a pudding!"

An elaborate machinery is provided

for the investigation of complaints and grievances. First there are the local officials at the prisons, then the Visiting Magistrates, the Inspectors, the Prison Commissioner, the Secretary of State, and, for questions of sentence, the Court of Criminal Appeal. Petitions are very frequent, especially in convict prisons. The writers enter into great detail to the Secretary of State, and sometimes adduce fresh facts bearing on their cases, which, after investigation, enable him to remit the whole, or a part, of the sentence. Most of the petitions, however, are found to be without grounds, but this does not prevent prisoners from renewing their applications, which many of them do repeatedly. Remission of sentence is generally asked for on the grounds of innocence or extenuating circumstances, but there are many other forms of appeal for clemency. When Sir William Harcourt was Home Secretary he was generally spoken of by prisoners as "the Prisoner's Friend." I have seen one

petition addressed to him beginning in this way: "Hearing that you are a gentleman of large humanitarian views." The writer was a violent habitual criminal, and, although he began his appeal in this mild way, he ended it with threats of what he would do if he were not liberated.

Another petitioned on economic grounds. He began by saying "all the previous convictions duly noted at the top of this petition having failed to work my reform, mercy and gratitude might be tried. Justice is a signal failure, and so a humiliating fact for me to acknowledge." He went on to say he had a wife and seven children who, if he is kept in, will have to go to the workhouse and be on the rates as he is at present on the taxes. His release therefore would be a saving to public funds. If his petition is granted he will conclude with the usual formula, *and mean what he says*, when he adds, Your petitioner will ever pray, &c.

Other prisoners petition on the grounds

of health, or supplement some other plea with complaints of the apathy of their medical advisers, and of the unsatisfactory — if not alarming — state of their health. Several, however, seem to petition for the mere joy of it. Some even forget to ask for anything in their zeal to let the Secretary of State know their erudition, or perhaps what they think of him!

One old prisoner, who was constantly coming to Holloway, made it a practice to ask for a petition on the morning after her arrival. She framed them all on the same lines. After a few preliminary and perfunctory observations on the want of consideration shown by the police to a lady like herself, she proceeded to supply the Secretary of State with bits of autobiography and family history, including that of her husband, who had about a dozen letters to his name. The Visiting Magistrate one day, after listening patiently to her for five minutes, and hearing her history, with an account of

her marriage, asked her if she had petitioned. "Oh yes," she said with an air, "I am in constant correspondence with the Secretary of State."

Next day, however, she applied for another petition before she had received a reply to her last.

Every petition is carefully read, however irrelevant or indistinct it may be, and is passed through the hands of many officials, and has all its statements of fact closely investigated before a final reply is sent to the petitioner and communicated to him by the Governor.

Educated convicts, who write books and magazine articles after their release, depicting the horrors of penal servitude and the hardships and grievances they experienced in prison, and denouncing the wrong-headedness and barbarity of the penal system, have a standpoint of their own which always seems to imply that the system has been designed for people of their class. This is far from being the case. Official refutation of

their views is never offered, because the system established by the Legislature has been reported on by Committees and Commissions in quite a different sense. It is natural that prison life should be more disagreeable to educated prisoners than it is to ordinary criminals. The punishment is of necessity much heavier for them, but surely their responsibility is also greater. To set up a system that would be congenial to an educated type would mean impunity, or perhaps luxury, for a lower class who form the bulk of the convict population.

It has recently been asserted that the entire penal system stands self-condemned, and has totally failed either as a deterrent or remedial agency for dealing with crime, because no less than 80 per cent. of convicts return time after time to prison. This statement, which has a very plausible ring about it, is in reality a complete fallacy. If the system fails to deter to the extent stated, it is reasonable to infer at all events, that the

“horrors of penal servitude” cannot be so real, when 80 per cent. of those who have experienced them get reconvicted. Nor is there any internal evidence to show that convicts are driven to despair. Suicides are very rare. One only occurred in 1909 out of a population of over 3000, as compared with fourteen in the Local Prison population of over 18,000. But in order to measure or estimate the deterrent effect of any system we should have at our disposal some statistics showing the numbers of potential criminals who have been *kept out of prison* by its existence, supplemented, let us hope, by the descriptions given of it by literary ex-convicts. Such statistics are of course impossible. A mere record therefore of the failures, without any particulars of the successes, is an unsatisfactory criterion. We know, however, that of late years imprisonment has become less popular. The numbers of criminals in prison have largely decreased, and the numbers of non-criminals

out of prison show at the same time a gratifying increase in proportion to the general population. If we add to these indications the facts that a certain percentage of convicts—small it is true—do not come back to prison, and that a considerable percentage of local prisoners, estimated by the Gladstone Committee at 70 per cent., do not return after their first experience, we have some grounds for claiming that, although these results may be partly due to an increase of public virtue, the penal system is not altogether non-deterrent. Any measures in the way of severity that would tend to make it more deterrent would be very distasteful to these critics of the existing methods. There is certainly nothing conclusive to show that the system fails to deter simply because the habituals are constantly coming back.

But it is also stated that the system fails to reform prisoners, since no less than 80 per cent. of convicts return to prison. In regard to these convicts,

with their long lists of previous convictions, it should be borne in mind that under existing conditions they constitute a stage army of crime. The short sentence system, which has been in force since 1880, and which has recently been amended, has hitherto tended to multiply their exits and their entrances. They are fully-developed habitual criminals of mature years and settled habits, who have already graduated in crime, and adopted crime as their calling with all its risks and attractions. No country in the world has yet devised any effective scheme for reforming these finished products. The Gladstone Committee said in their report :—“ The habitual criminals can only be effectually put down in one way, and that is by cutting off the supply.” This is a tacit admission of the opinion long held by prison authorities that they are moral incurables. If further evidence of this were needed it can be found in the recent adoption by the Legislature of the “ Preventive De-

tion" system for the class of persons who are persistently addicted to crime. Now, if the prison system succeeds in reducing the numbers of these habituals by prevention instead of by cure, or, in other words, if it "cuts off the supply" by preventing occasional offenders from becoming habituals, it cannot be said to be unsuccessful as a reforming agency, any more than a sanitary system adopted to prevent typhoid can be called a failure because it does not cure the developed disease.

The real test therefore of the efficacy of the system would seem to lie in its success or failure to reduce the actual numbers of practising habitual criminals, rather than in its failure to reclaim the irreclaimable. We have already seen that the numbers of these practising habituals have been so reduced, that convicts, who specially represent the class, now number 3000 only compared with 10,000 in 1880. Nor can those who are missing be found in the local prison population which has

also gone down in the same time from 20,000 to 18,000, despite the increase that has taken place in the general population in the course of thirty years. It is not claimed that the decrease of habitual criminals is actually represented by these figures. Reduction of sentences may account for about 30 per cent. of it, but, after making all due allowance for changes of procedure affecting this class, it must be obvious that the figures mean an enormous decline in the numbers of those who adopt crime as their profession; also that a system which has the effect of either reforming or deterring the recruits for the criminal army, even if it cannot reform the veterans, is fairly entitled to some merit.

By way of illustrating the difficulties of reforming habituals I give a few figures which show the quality of the material that has to be dealt with. Last year 1150 convicts were received under sentence. Of these only 180 had not been previously convicted. Of the remaining

970 with previous convictions recorded against them, 51 had been convicted four times, 80 five times, 288 six to ten times, 285 eleven to twenty times, and 119 above twenty times. It will be seen that such material is not very hopeful for reformatory treatment. The "incurrible" is not a myth, as some good people think. His existence has to be reckoned with all the world over. Even in America the authorities of Elmira have recently been lamenting his influence in spoiling their statistics of recovery by at least 30 per cent. of failures, so that there, as here, he is what they might call "a stiff proposition."

A crusade has recently been started in the Press on behalf of prisoners and prison reform, originating apparently from Mr. Galsworthy's sensational drama *Justice*, which is in reality a grotesque travesty of prison life and treatment under present day conditions. The subject is one, unfortunately, which lends itself readily to sensational treatment,

and the Press ministers freely to the public appetite for the lurid details supplied from all sources. False and exaggerated statements are put forward by sentimental theorists on the one hand, and by ex-prisoners on the other. We read of the brutal warder, as if he were of absolutely uniform pattern, of the imaginary horrors of "solitary confinement" applied to the "separate cell system," of badly cooked innutritious food (a chimera), and even of foul sanitary conditions. Every one knows that foul sanitary conditions produce inevitable results in prison probably more notably than anywhere else, and yet there are no signs of these results, for the simple reason that the sanitary record of the modern prison is unimpeachable.

Those who remember the epidemic of sentimentalism that swept through the Press twenty years ago on this same subject will see that the present agitation is a comparatively feeble echo of the sweeping indictment of that period.

The same reckless allegations in regard to the soul-destroying effects of the prison system, and to the way in which it was administered, were put before the public with all the journalistic skill and eloquence of the period, till at last a committee was appointed under Mr. Herbert Gladstone's chairmanship to investigate the whole subject. It is well to remember in the present storm that the findings of this committee threw rather a cold douche on the statements of those who charged warders with brutality, and the Prison Commissioners with maladministration, and defective sanitary arrangements. These charges in fact could not be substantiated then, and they are less likely to be substantiated now. In regard to the warders their finding was—"so far as we have been able to find out, the warders, as a body, discharge their difficult and most responsible duties with forbearance and kindness."

Amongst the many interesting suggestions that are being put forth in the

Press for our edification, and presumably also for our imitation, I find a full description of the system in force at the Missouri State Penitentiary. "There the prisoner earns money, spends it on the few luxuries not already included in the prison diet, reads all the papers and magazines, in some cases runs his own prison journal, and sends picture post-cards of prison life to his friends to assure them that he is *enjoying himself*"? Surely this is a strange feature for a so-called penitentiary! "All food is prepared under the supervision of a trained chef, and absolute cleanliness is insisted upon. None but prime cuts of meat are issued, and the bill of fare includes fresh and corned beef, prunes, peaches, rice, sausages, macaroni, pork, rabbits, tomatoes, radishes, sweet potatoes, turnips, beans, and new bread. He dines in a bright airy dining hall at a clean table, and is tended by coloured waiters. He wears a blue uniform of a military cut, a peak cap, and well polished shoes."

At another prison at Atlanta every prisoner is asked whether he smokes or chews, and he gets a pipe and plenty of tobacco. He may also buy cigars or have them sent to him by friends. Music hour is from six to seven P.M., and a prisoner who can play the violin, cornet, 'cello, flute, or harmonium is permitted to have his favourite instrument in his cell. The big drum is the only instrument barred. A pathetic account follows of the starting of "Home Sweet Home," which was taken up by the whole corridor—then a period of silence, broken by many sobs from the cells! Concerts and theatrical entertainments are frequent; prisoners run stalls for refreshments where they can get ice-cream, fruit, candy, also "Aunt Sallys—three throws for a nickel," boxing-ring, and photo stand where you can have your picture taken on a post-card, with the loan of civilian clothes, for twenty-five cents. A cinematograph exhibition, we are told, of a prize-fight was shown in the

prison chapel (!) at Christmas—entrance twenty-five cents. We are also told that the relations between warders and prisoners are, as a rule, on a more easy footing in America than in England, and that in many of the convict establishments there is “an absence of any outward sign of discipline and respect.”

If this account is not exaggerated, a prison in America appears to be a tolerably comfortable club without the customary drawback of entrance or annual subscription. The whole story of course reads to us like comic opera, but none the less it is unfolded in the Press as an aid to us in the bringing of our prison system up to date.

The free and bracing air of America may perhaps produce a type of criminal to which we are unaccustomed—one who is capable of being turned into a useful citizen by a pampering system—but it is as certain as anything predictable can be that such a system would demoralise criminals as we know them. It is not

unlikely that I may be called a stony-hearted official for taking a cold commonplace view of the treatment that is most calculated both to reclaim prisoners, and to reduce crime, but I have at all events more than an arm-chair knowledge of the subject, and more than a nodding acquaintance with the material to be experimented on. These credentials must be my excuse for denouncing a pampering system as one that is likely to cause much more harm than good. Pampering, in fact, is just as unsound in principle, and just as futile in practice, with a naughty man as it is with a naughty child. No responsible person who has had to deal with criminals in this country would contemplate offering the profuse hospitalities of an American prison to the 25,000 vagrants who entered English prisons last year, without entertaining very grave misgivings that he would be encouraging, instead of checking crime.

The conditions of life in America are of course quite different to what we see

in England. The struggle for existence is much keener here, more especially for the class who mainly supply the prison population. If, then, our prisons offered such attractions as are here described, thousands would avail themselves forthwith of a rest-cure under conditions that would really mean to them Oriental splendour and luxury.

CHAPTER X

Hardships of imprisonment exaggerated—Comments on imprisonment by ex-convict in the *Hibbert Journal*—Scheme of reformers—Extension of associated labour—Arguments against total abolition of separate system—Advantages and disadvantages of association—Discipline a necessity for prisoners—Penal systems of other countries—Identification—Criminal statistics—Recidivism—General efficacy of our system and its leading principles—Activity of habitual criminals—Alleged failure of the system—Proposed developments under the Bill to be introduced in the autumn of 1910—Theories of punishment—The system unsuited to some classes of prisoners—Difficulties of reformatory work in large prisons.

THOSE who have followed me so far will probably see that the extent of the “misery” which is said to be suffered by prisoners depends much more on the temperament and antecedents of the offenders than on any cruelty inherent in the system. Even if it be conceded that all offenders are the “victims of degrading social conditions,” as we are so often told, or that they are persons

of very weak resolution, or even destitute of free will, nothing that can fairly be called "barbarity" can be charged against the system itself. Having no data for calculating the amount of suffering undergone by prisoners, any more than we have for calculating the extent of the suffering they inflict on their friends and on their victims before coming to prison, we are driven to rely on general impressions, for what they may be worth, and on any indirect evidence that may be forthcoming. So far as my experience goes, I have not seen signs of general misery or dejection amongst them, nor of the "helpless, hopeless" look they acquire in prison; nor have I witnessed the results that would be likely to follow misery on a large scale, such as the prevalence of mental breakdown, or the frequency of suicides. As a matter of fact, suicides, as they occur in prison, are always in an inverse ratio to length and severity of sentence, being much more common amongst short-sentence prisoners than

they are amongst convicts. So long as it is necessary to seclude offenders and place them under lock and key, a certain amount of hardship or of suffering must be inflicted on them, and—if freedom is the antithesis of slavery—even a form of “slavery” of a temporary character. In the discussion that is going on a very free literary use is being made of the odium attaching to this word, although every one knows that when a man is sent to prison he forfeits his freedom for the time being. Does not the very term “penal servitude” imply a state of bondage or slavery?

A writer, who is said to have pleaded guilty to the “misappropriation of money at a time of financial embarrassment,” and to have been sentenced to six years in a prison in Australia after detention for three months in an English prison, is permitted in the *Hibbert Journal* of April 1910 to give a blood-curdling account of his sufferings as a convict. The whole story reads like the descrip-

tion of an imaginary inferno painted by a very capable artist, and in many of its details is incredible. As the particulars, however, refer to a sentence carried out many years ago in a distant colony, it is not easy to refute them, but exaggeration is stamped on the article from beginning to end, and the picture bears no sort of resemblance to the conditions in a modern English prison. He makes great play with the "slavery" point—contrasting the slavery by imprisonment with the negro slavery once practised in America, much to the disadvantage of the former. After stating that the negro's labour was of a lighter kind, he goes on to say: "He was not deprived of his home and its comfort; he could marry; within the perimeter of his servitude he was free to come and go as he chose; he had unrestricted companionship of his fellows, male and female." He adds naïvely: "These are privileges denied a prisoner." He deplors the "rending asunder of families, which is

a constant accompaniment of imprisonment that acts and reacts calamitously on all involved." The work is "degrading, grinding, unsuitable, weakening, stupefying." "All prison functionaries are depraved, according to the ratio of contact, by imprisonment. The jailer delights in torturing the defenceless by every possible physical and mental means."

These are a few phrases culled from the article. Of practical proposals as to how persons committing serious crimes like his own are to be dealt with he has nothing definite to say. A vague hint of his intentions may perhaps be found in the following sentence which comes early in the article:—"Did men and women realise what imprisonment actually means and is, they would immediately free all prisoners by main force, put the personnel at undepraving work, and make any continuance of the horrible thing impossible."

From the stress this gifted contributor

lays on the iniquity and barbarity of the separation from family which is involved of necessity in a sentence of imprisonment, coupled with the extract given above, it would appear that he is waging war against the whole principle of imprisonment. But what would he set up in its place? If he has a plan of his own he does not disclose it. The logical outcome of his reasoning would seem to be a general amnesty in the present, and the total abolition of imprisonment for wrongdoers in the future. One of his own alleged grievances was that on his final discharge he was "woefully behind the times"; but, if I interpret his meaning aright, he has advanced considerably in his ideas beyond them now.

Prison administrators are at all times ready to welcome practical suggestions, from whatever source, for remedying grievances, or for improving the system, so far as their powers admit. It is, in fact, their interest to attain the smoothest possible working of the machinery. Many

of the schemes and proposals, however, which are brought forward by reformers in and out of prison, would mean a wholesale reconstruction, which is a matter for Parliament and the public. Meantime attempts to reconcile conflicting suggestions for increased deterrence on the one hand, with the free and easy life of an American prison on the other, or with no imprisonment at all, as advocated in the *Hibbert Journal*, are beset with many difficulties, to the solution of which it can hardly be said that sentimentalists have yet contributed much really practical help.

I have already alluded to the fact that the prison authorities are now relaxing the principles of the Separate System by extending the benefits of associated labour to those whose sentences are long enough to enable them to profit by it. Miracles, of course, cannot be wrought with the unskilled, who are sent in for a few days only. This policy is excellent, both in theory and in practice, and a further ex-

tension of it, so as to shorten the period of cellular confinement at the beginning of a sentence for all well-conducted and industrious prisoners, would seem to be a reasonable concession; but the total abolition of the Separate System for all prisoners, which is so loudly demanded by many ex-prisoners and others, would be a very retrograde proceeding. There are some prisoners who cannot be classified. Violent, dangerous, intractable, and depraved, they cannot be allowed to mix with the general body, and are best kept apart. The Separate System enables a governor to deal with them individually, and keep them out of trouble. On the other hand, there are over 90 per cent. of local prisoners who never incur punishment—a fact, by the way, which is hardly consistent with harsh treatment. Amongst these there are several persons well-conditioned, and of a better class, who prefer privacy to a society to which they are unaccustomed. Association with other prisoners at chapel and exercise is

quite sufficient for them, more especially if their sentences are not long. These are people, moreover, specially deserving of consideration, being for the most part first offenders. Further, a preliminary period of separation, however short, is very essential for administrative purposes, if all prisoners who are, so to speak, unknown quantities on reception—who may have been drinking recently, or may have committed offences of a violent or dangerous character—are to be fitted into their proper places in the industrial system in accordance with their qualifications of skill and character. Again, there are prisoners who, from a mischievous rather than a vicious tendency, have a knack of getting into trouble in company, while they are well-behaved when alone. For these the Separate System, used intermittently, is a safeguard against dietary and other punishments.

The advantages of association, on the other hand, from a prisoner's point of view, are obvious enough to attract an

undoubted majority of offenders ; but the disadvantages also are not inconsiderable for him as well as for his keepers. These disadvantages are seen at their worst in a convict prison where men, for their health's sake, are obliged to pass their long sentences in the open air, working in parties under a supervision which, in the nature of things, is more or less ineffective for preventing verbal communications. The language of the prisoners is too often filthy and obscene. To any self-respecting man, or to a man of the better class, such talk is so sickening that he gladly obtains a respite from it in his cell, or in a change of party if he can get it.

The writer in the *Hibbert Journal* thus refers to the subject:—"Most of his (the prisoner's) associates use language whose filth is unimaginable. . . . There is no escape from it." . . . "Imprisonment furnishes the means of an education otherwise unattainable to many for the perpetuation of criminality."

Here are the views of another convict. "Oh dear! this is a truly wretched life, working day by day in association with a lot of the most foul-mouthed ignorant blackguards ever collected together in one spot. It debases one's bit of intellectual faculties to such an extent that seriously I feel at times it will end in my becoming an inmate of that institution near to which you and I once spent a very pleasant evening."

Female criminals are not so filthy in their conversation with each other as men, but when they are in a state of anger or excitement they will let loose torrents of abuse and obscenity. If one can judge from their subsequent demeanour when they are under report for these offences, they seem to have a certain sense of shame, as their defence is almost invariably a denial, such as, "I never made use of *any language*"—an expression which I generally found to signify, not that the prisoner had meekly said nothing, but that she did

not have at her command a stock of really bad language, or that she had not used language at all events that was not warranted by the occasion. An Irish woman, who was bountifully endowed with a vocabulary of obscenity, was once brought before me charged with using filthy language to her officer, and then throwing a cell utensil at her head. Her defence was not on the usual lines. In reply to the charge of bad language she said—"Shure it didn't hurt her, sir." In reply to the charge of throwing the utensil she said—"Shure it didn't hit her, sir." She made no attempt at denial, but claimed judgment by results.

Confirmed female criminals, however, are specially dangerous as corrupters of novices, and will make pupils of them if they get a chance.

It must be obvious, then, that these contaminating influences are not imaginary evils. They constitute a real and strong objection to the principle of

association for all prisoners. In local prisons, however, where men work in shops, or under cover, they can be better controlled, and, if a good classification is in force, injurious results are less likely to follow. Indiscriminate association would take us back to the eighteenth century prison system, and must be avoided at all costs; but a cautious extension of the principle to well conducted prisoners in local prisons under proper safeguards, and for the purposes of work, is a reasonable and promising means for ameliorating the lot of the prisoner. To carry the principle further, and to extend it to the dining hall and the reading room would probably be for him a curse rather than a blessing. The most amiable of persons grow weary of their companions on a short sea voyage, even though they may be people of blameless life, but the prospect, from a social standpoint, of eternal convict, from whom there is no escape, being served up with meals would certainly add to the horrors

of imprisonment for a considerable number of the better sort.

But how would discipline be likely to fare under this programme of social amenities so confidently recommended to us? This question will, no doubt, be lightly brushed aside by enthusiasts for a free system. There is at present a spirit abroad denoting impatience of restraint and discipline which is not a wholesome sign of the times. Free education, which has been so beneficial in other respects, seems to have brought with it some false conceptions of freedom which are not favourable to discipline. Those who have been brought up under it at all events are found to resent disciplinary measures that were not irksome to their predecessors.

For an unruly class who defy law and order when they are out of prison a code of discipline is absolutely essential if they are to be controlled in prison. This code, which is necessarily strict, is designed in the interests of prisoners, and is by

no means unreasonable. Eighty per cent. of convicts, and ninety-two per cent. of local prisoners per annum, avoid breaches of it. But, however necessary such a code may be for prison authorities, it is still more so for prisoners, if they are to acquire that power of self-control which is the only foundation for reformation of habits and character, and the lack of which is generally the cause of their downfall. Association on such generous lines as are suggested is not conducive to the practice of discipline. Nor is it apparently altogether in consonance with our national character, so that until all personal antipathies, class distinctions, and other peculiarities are abolished, and all traces of feudalism are wiped out, it is not likely to take root in this country.

The penal systems of foreign countries differ so widely from each other, and from our own, that the statistical information which they supply does not give us an adequate basis for comparing their

criminal records with our own. There are, however, no positive indications that life and property are less secure in England than in these countries. Our insular position and comparatively limited area, combined with a very efficient system of identifying criminals, enable us to trace more easily the habituals; and these are the persons who count most in the perpetration of serious crime. With such advantages in our favour it is probable that we get more accurate and more complete records of criminality than larger countries possess, and that we see ourselves, if not at our very worst, at least in the worst light attainable. Moreover, our criminal statistics must not be invariably taken at their face value. I am inclined to think that sometimes they are so full as to be mystifying, if not misleading, to the casual reader, and that they tend to magnify, in some directions at all events, the real situation. Those who are responsible for their issue, and who understand their significance,

add to them qualifying explanatory notes, but these are generally ignored by superficial inquirers who rely more on the multiplication table aspect of figures. Take the case of recidivism as an example. The actual figures show clearly enough that the percentage of local prisoners with previous convictions has gone up in the past decade from sixty-four to over sixty-seven. I have already shown the very questionable deductions that have been drawn, from the high rate of recidivism amongst convicts and prisoners generally, as to the failure of the prison system in deterring or reforming criminals. But it is very doubtful if these figures denote any actual increase in criminality. More previous convictions are *proved* because the system of identifying offenders by finger-prints is now almost infallible, and more convictions take place because habitual offenders get short sentences, and more frequent opportunities.

In a similar way the total number of

offences under their different headings, which bulk so large in the public eye, are open to some misconception. These are, of course, useful as affording a measure of the volume of crime and of the activity of criminals, but they are likely to mislead as to the numbers of the latter. A minor offender, for instance, may account for many of these offences in a year, so that in some of the returns one individual is counted over and over again.

Now, this constant cropping up of the same individual in criminal statistics is a source of much confusion if we attempt to form any estimate, based on figures, of the success or failure of our prison system in repressing crime, which is obviously the best practical test that can be applied to it. For these reasons I prefer seeking guidance rather from the average numbers of the criminals themselves, than from the volume of crime for which they are responsible. The rise or fall of crime is, in fact, best tested by a study of the rise or fall in the criminal

population. It is said that the increase of recidivism means, not only the failure of the prison system to reform, but also an increase of crime. Neither of these points can be established. If crime is really increasing where, it may fairly be asked, are the criminals? They must be either in convict prisons, or in local prisons, or at large. They cannot be in the convict prisons, where the numbers have gone down from 10,000 to 3000 in the past thirty years, despite the rise in the general population during the same period. Nor are they to be found in the local prisons, where, in like manner, the numbers have dwindled from 20,000 to 18,000. It must be borne in mind, that any increase in serious crime that might not be reflected in the average population of convicts, would show clearly in the average population of local prisoners, since the addition of even a few hundreds of sentences, ranging from one year to two, would make a considerable impression on this latter average.

Lastly, if they are at large, and still engaged in criminal pursuits, we must conclude that police methods of detection are more inefficient than they were a generation ago. We know, however, that this is not the case. We must conclude, therefore, that the decline in the numbers of the criminal class is a reality, and, further, that it means an actual decrease in crime. What the extent of this decrease actually is it is not possible to show in figures; but when we remember the broad fact that a total criminal class, which in 1880 could furnish a daily average population of 30,000 prisoners, representing crimes of all kinds, major and minor, at a time when the population of the country was 25,000,000, can at the present time furnish a daily average population of 22,000 only, when the general population of the country has risen to 35,000,000, it is clear that the decrease in crime must be very substantial and much greater than is generally supposed.

The period under review, which has been marked by many reforms and much progress, has been specially remarkable owing to the activity of the habitual criminal. He has had a very free run, which he is not likely to enjoy in future. The numbers of his class have diminished, rather from the cutting off of recruits than from any material success in the measures taken for his reclamation. Had the system of preventive detention recently enacted been in force during this whole period, we should undoubtedly have had still better results to show in the reduction of crime; but the constant recurrence of his activities has baffled the authorities, and swelled the volume of offences.

If these conclusions of mine are correct in regard to crime, and if such decrease is accepted as a fair test of the efficacy of our penal system, it follows that the system is not the "failure" it is often alleged to be. The general principles on which it has been slowly built up

would appear to be that it should be punitive without being vindictive, reformatory without being demoralising, and deterrent without being inhumane. It is undoubtedly more suited to our national requirements than any foreign system that is yet known to us, and it is capable of further improvement and development on the lines of the principles above stated. To abolish the whole structure, or to completely revolutionise it, at the dictation of a clamorous class of persons who draw their inspiration for the most part from disaffected ex-convicts, and who think more apparently of the personal comfort of prisoners than they do of practical business-like measures for reforming them by means of the inculcation of self-help, would seem to be an act of doubtful expediency.

Some such development as I have indicated is apparently occupying the attention of the present Secretary of State, Mr. Winston Churchill, who has already outlined a Bill which he

250 CRIME AND CRIMINALS

proposes to introduce in the autumn of 1910. The main objects of this Bill will be to abolish the ticket-of-leave system which has proved so obnoxious to ex-prisoners, to grant to persons with fixed residences a reasonable interval of time in which to pay any fines that may be imposed by the Courts, to substitute, for certain offenders under twenty-one years of age, a kind of defaulter's drill to take the place of imprisonment, and, under a set of rules already issued by the Secretary of State, to accord to certain classes of prisoners, such as Passive Resisters and Suffragettes, whose offences involve "no moral turpitude," a special prison treatment with indulgences in the matter of supplying their own food, wearing their own clothes, exercising together, and conversing, and enjoying generally various privileges which are at present attached to the First Division. Further, the period of separate confinement is to be reduced to one month, and lectures and

musical entertainments are to be provided in convict prisons periodically.

The abolition of the ticket-of-leave would appear to be a logical consequence of the new Preventive Detention treatment. If convicts are called on to undergo a period of probation running into years before they leave custody, it is only reasonable they should be spared a further period of probation under police supervision after their discharge. Hitherto their great grievance has been the irksome duty of reporting themselves to the police. They will now be free to get a living, and to lead law-abiding lives, if they choose to do so, not only without let or hindrance, but with such practical assistance as a Committee of officials and Discharged Prisoners Aid Societies can render them. The reform is undoubtedly on rational lines, and it should put an end for ever to complaints which, however exaggerated they might be, always secured for the discharged convict a considerable share of popular sympathy.

The Secretary of State does not seem to entertain a very favourable opinion of Preventive Detention, and calls it in reality Penal Servitude, but the system has not yet had the advantage even of a trial, and if the regulations that are designed for carrying it out are liberally framed, there seems to be no reason why the conditions should not be made to approximate to those of a labour colony rather than of a convict prison.

To give further time for the payment of fines in suitable cases is another reasonable concession. Defaulters may, of course, give trouble and evade their penalties, but the object of keeping people out of prison is of such paramount importance to themselves, as well as to those who are dependent on them, and to the community in general, that difficulties of this kind may well be ignored. The same consideration applies with double force to the case of those offenders who have not reached their years of discretion. Every possible effort is justi-

fiable to keep them out of prison, and if "defaulter's drill," or any other expedient is likely to assist in this object, it is well worth a trial, when, as we are told, more than five thousand cases a year are at present available for the experiment.

In regard to the special treatment under the rules intended for Suffragettes, Passive Resisters, and other militant law-breakers whose offences do not involve moral turpitude, the principle of lightening their self-imposed penalties, and removing their prison grievances, is not likely to meet with much official or popular resistance. No one wishes these very willing martyrs to be treated with any harshness or severity. It remains to be seen, however, whether the contemplated change of treatment will be wholly acceptable to themselves. Some may possibly prefer not only to adopt the crown, but the whole paraphernalia of martyrdom, including the prison dress, which latter has the special merit of

giving a picturesque touch to a street procession; but the choice that will be given them will remove what the majority hold to be a legitimate grievance.

As the privileges to be accorded are practically the same as those belonging to First Division offenders, it is to be hoped that the Bill will instruct the Courts to place all suitable cases in the First Division. The very delicate task of deciding the degree of "moral turpitude" in each case is one which should be settled by the Court, and not by the prison authorities. Differential treatment of prisoners generally in matters of such importance to them as the wearing of their own clothes, and the supplying of their own food, if left absolutely to the discretion of prison officials, is apt to give rise to suspicions of favouritism, or abuse, which it is very essential to avoid.

These developments, it will be seen, and many others of a similar kind in the direction of such leniency

as may be deemed necessary from time to time, are still quite feasible under existing conditions, without resorting to the drastic remedy of "scrapping" the whole Separate System in deference to criticism based on the pictorial illustrations of separate confinement as presented to us in a recent sensational drama. None of the developments will be found incompatible with the underlying principles of our penal system, and they are capable of indefinite extension to meet the ever-varying complexion of criminality, and the latest scientific methods of dealing with it under an advancing civilisation. No system is perfect, nor is any system worth consideration unless it is progressive. I have already indicated clearly my reasons, founded on actual facts and results, for thinking that our system cannot fairly be accounted a failure, though we are constantly being told that it is so "in the opinion of those best qualified to judge." Who these persons may be I do not

know, but general references of this kind to some unnamed tribunal have little weight in controversy, and should be accepted with caution. It is quite certain that the temerity of critics in dealing with complex problems of prison administration is frequently far in advance of their knowledge of the subject, and of their appreciation of its difficulties. The latest and most correct theories of punishment are advocated for ill-understood criminals with all the confidence evinced by a quack in prescribing for unknown and absent patients. Criminals are not ordinary people. Very often they are suspicious of, or unwilling to benefit by, any scheme or theory, however beneficent; and very often too they will offer active as well as passive resistance to the most benevolent designs. Hence it happens that mere theories, though never perhaps a hindrance, are seldom a help to be depended on in dealing with such persons as we find in convict prisons.

Where our system has really proved a

failure has been in its inapplicability to very large numbers of persons who have been forcibly and very unwisely brought under its influence. Reformers are at last beginning to see that many persons are being sent to prison who should never be found there. Wandering lunatics, mental defectives of all sorts, inebriates, vagrants, young persons under sixteen, and many others between sixteen and twenty-one are now being very properly ruled out as persons unfit for prison life. Hitherto these ineligible have been committed every year in tens of thousands, with the absurd expectation that a few weeks or days of prison treatment would miraculously transform them into useful members of society. Penal treatment of any kind for the mental defectives is irrational, if not cruel; the ordinary penal treatment in force in our local prisons for vagrants and mendicants is attractive rather than repellent; but for all these ineligible alike it is absolutely useless and unscientific as a means either of de-

terrence or moral improvement. Conversions accordingly amongst this class have been on a very limited scale, and scientific theories of punishment have been of little use. I have already shown some of the difficulties to be met with in altering the moral outlook of the finished professional criminal, and in reforming his habits and character. To educate, discipline, and train the younger unfinished criminal, so as to effect his reformation, in an establishment in which the wants of all this motley assemblage of other pupils have to be attended to, has hitherto proved a task of almost equal difficulty. The atmosphere and environment in the larger prisons, to which most of the young recruits embarking in careers of serious crime are committed, are distinctly unfavourable to reformatory work, so that it seems somewhat surprising that even so much has been accomplished. The outstanding fact remains that the numbers of these recruits have steadily diminished in the last three decades, so that the

standing army of those engaged in serious crime is showing clear signs of wastage. It is very doubtful if results of such a kind would be attainable under an inefficient penal system.

THIS BOOK IS DUE ON THE LAST DATE
STAMPED BELOW

AN INITIAL FINE OF 25 CENTS
WILL BE ASSESSED FOR FAILURE TO RETURN
THIS BOOK ON THE DATE DUE. THE PENALTY
WILL INCREASE TO 50 CENTS ON THE FOURTH
DAY AND TO \$1.00 ON THE SEVENTH DAY
OVERDUE.

JAN 30 1933

OCT 4 1934

JUN 20 1973

REC'D LD JUN 14 '73 -2 PM 5 4

YB 07612

320826
HV 6944
. Q5

Beinboll

